

By Harris of Dallas

S B. No. 1079

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the fitting and dispensing of hearing aids and speech-language pathology and audiology and to the creation of a new state board to replace the State Committee of Examiners for Speech Pathology and Audiology and the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. BOARD OF EXAMINERS FOR SPEECH

AND HEARING PROFESSIONALS

SECTION 1.01. Title 71, Revised Statutes, is amended by adding Article 4566a to read as follows:

Art. 4566a. BOARD OF EXAMINERS FOR SPEECH AND HEARING PROFESSIONALS

Sec. 1. BOARD OF EXAMINERS FOR SPEECH AND HEARING PROFESSIONALS. (a) The Board of Examiners for Speech and Hearing Professionals consists of:

(1) two members licensed as hearing aid fitters and dispensers who are not licensed as audiologists or speech-language pathologists;

(2) two members licensed as audiologists;

(3) two members licensed as speech-language pathologists; and

(4) three members who represent the public.

(b) Members of the board are appointed by the governor with

1 the advice and consent of the senate.

2 (c) Appointments to the board shall be made without regard
3 to the race, color, disability, sex, religion, age, or national
4 origin of the appointees.

5 Sec. 2. OFFICERS; MEETINGS; COMPENSATION. (a) The board
6 annually shall select a presiding officer, assistant presiding
7 officer, and secretary-treasurer.

8 (b) The board shall hold at least two regular meetings each
9 year at which time an examination for a license under a law
10 administered by the board shall be offered. Additional meetings
11 may be held on the call of the presiding officer or at the written
12 request of three members of the board.

13 (c) A member of the board is entitled to a per diem as set
14 by the General Appropriations Act for each day that the member
15 engages in the business of the board. A member may not receive any
16 compensation for travel expenses, including expenses for meals and
17 lodging, other than transportation expenses as provided by the
18 General Appropriations Act.

19 Sec. 3. TERMS. (a) Members of the board are appointed for
20 staggered six-year terms, with three members' terms expiring on
21 February 1 of each odd-numbered year.

22 (b) A member appointed to fill a vacancy shall hold office
23 for the remainder of that term.

24 Sec. 4. PUBLIC MEMBERSHIP RESTRICTION. A person is not
25 eligible for appointment as a public member of the board if the
26 person or the person's spouse:

27 (1) is registered, certified, or licensed by an

1 occupational regulatory agency in the field of health services;

2 (2) is employed by or participates in the management
3 of a business entity or other organization regulated by the board
4 or receiving funds from the board;

5 (3) owns or controls, directly or indirectly, more
6 than 10 percent interest in a business entity or other organization
7 regulated by the board or receiving funds from the board; or

8 (4) uses or receives a substantial amount of tangible
9 goods, services, or funds from the board, other than compensation
10 or reimbursement authorized by law for board membership,
11 attendance, or expenses.

12 Sec. 5. CONFLICT OF INTEREST RESTRICTIONS. (a) An officer,
13 employee, or paid consultant of a Texas trade association in the
14 field of health services may not be a member or employee of the
15 board who is exempt from the state's position classification plan
16 or is compensated at or above the amount prescribed by the General
17 Appropriations Act for step 1, salary group 17, of the position
18 classification salary schedule.

19 (b) A person who is the spouse of an officer, manager, or
20 paid consultant of a Texas trade association in the field of health
21 services may not be a board member and may not be an employee of
22 the board who is exempt from the state's position classification
23 plan or is compensated at or above the amount prescribed by the
24 General Appropriations Act for step 1, salary group 17, of the
25 position classification salary schedule.

26 (c) For the purposes of this section, a Texas trade
27 association is a nonprofit, cooperative, and voluntarily joined

1 association of business or professional competitors in this state
2 designed to assist its members and its industry or profession in
3 dealing with mutual business or professional problems and in
4 promoting their common interest.

5 Sec. 6. EFFECT OF LOBBYING ACTIVITY. A person may not serve
6 as a member of the board or act as the general counsel to the board
7 if the person is required to register as a lobbyist under Chapter
8 305, Government Code, and its subsequent amendments, because of the
9 person's activities for compensation on behalf of a profession
10 related to the operation of the board.

11 Sec. 7. GROUNDS FOR REMOVAL FROM BOARD. (a) It is a ground
12 for removal from the board if a member:

13 (1) does not have at the time of appointment the
14 qualifications required by Section 1 of this article;

15 (2) does not maintain during service on the board the
16 qualifications required by Section 1 of this article;

17 (3) violates a prohibition established by Section 4,
18 5, or 6 of this article;

19 (4) cannot discharge the member's term for a
20 substantial part of the term for which the member is appointed
21 because of illness or disability; or

22 (5) is absent from more than half of the regularly
23 scheduled board meetings that the member is eligible to attend
24 during a calendar year unless the absence is excused by majority
25 vote of the board.

26 (b) The validity of an action of the board is not affected
27 by the fact that it is taken when a ground for removal of a board

1 member exists.

2 (c) If the director has knowledge that a potential ground
3 for removal exists, the director shall notify the presiding officer
4 of the board of the ground. The presiding officer shall then
5 notify the governor that a potential ground for removal exists.

6 Sec. 8. STAFF. (a) The board shall employ a director and
7 administrative and clerical employees as necessary to carry out the
8 board's functions.

9 (b) The board shall develop and implement policies that
10 clearly define the respective responsibilities of the board and the
11 staff of the board.

12 Sec. 9. REGULATORY STATUTES ADMINISTERED. The board shall
13 administer and enforce:

14 (1) the speech-language and pathology law under
15 Chapter 381, Acts of the 68th Legislature, Regular Session, 1983
16 (Article 4512j, Vernon's Texas Civil Statutes), and its subsequent
17 amendments; and

18 (2) the law relating to the fitting and dispensing of
19 hearing aids, Chapter 366, Acts of the 61st Legislature, Regular
20 Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil
21 Statutes), and its subsequent amendments.

22 Sec. 10. SEPARATE LICENSES. (a) The board shall issue
23 separate licenses for a hearing aid fitter and dispenser, an
24 audiologist, and a speech-language pathologist.

25 (b) The board may issue more than one type of license to a
26 person under a law regulated by the board if the person is
27 qualified to hold each of the licenses issued. The board shall

1 adopt rules relating to the issuance of multiple licenses to a
2 person under laws administered by the board.

3 Sec. 11. RULES. (a) The board may only adopt rules
4 proposed to the board by a rules subcommittee established under
5 Section 12 of this article. This provision controls
6 notwithstanding any conflicting provision of the speech-language
7 and pathology law under Chapter 381, Acts of the 68th Legislature,
8 Regular Session, 1983 (Article 4512j, Vernon's Texas Civil
9 Statutes), or the law relating to the fitting and dispensing of
10 hearing aids, Chapter 366, Acts of the 61st Legislature, Regular
11 Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil
12 Statutes).

13 (b) If the board does not approve a rule proposed by a rules
14 subcommittee, the board shall indicate to the subcommittee the
15 reasons that the board did not approve the rule and return the rule
16 to the subcommittee for further development.

17 Sec. 12. RULES SUBCOMMITTEES. (a) Three rules
18 subcommittees, each consisting of three members of the board, are
19 established as follows:

20 (1) a rules subcommittee relating to the fitting and
21 dispensing of hearing aids consisting of the two board members who
22 are fitters and dispensers of hearing aids and one member who
23 represents the public;

24 (2) a rules subcommittee relating to audiology
25 consisting of the two audiologist members and one member who
26 represents the public; and

27 (3) a rules subcommittee relating to speech-language

1 pathology consisting of the two speech-language pathologist members
2 and one member who represents the public.

3 (b) A member of the board may not serve on more than one
4 rules subcommittee.

5 (c) The presiding officer of the board shall designate the
6 public members of each rules subcommittee.

7 (d) A rules subcommittee shall develop and recommend to the
8 board for approval rules that regulate the profession to which the
9 subcommittee relates. A rules subcommittee periodically shall
10 review board rules relating to the profession to which the
11 subcommittee relates and shall recommend changes in those rules to
12 the board. The authority of a rules subcommittee is not affected
13 by Section 5(f), Administrative Procedure and Texas Register Act
14 (Article 6252-13a, Vernon's Texas Civil Statutes), and its
15 subsequent amendments.

16 Sec. 13. EXPENDITURES; AUDIT. (a) The board may authorize,
17 from funds appropriated to it, all necessary disbursements to carry
18 out:

19 (1) this article;

20 (2) the speech-language and pathology law, Chapter
21 381, Acts of the 68th Legislature, Regular Session, 1983 (Article
22 4512j, Vernon's Texas Civil Statutes), and its subsequent
23 amendments; and

24 (3) the law relating to the fitting and dispensing of
25 hearing aids, Chapter 366, Acts of the 61st Legislature, Regular
26 Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil
27 Statutes), and its subsequent amendments.

1 (b) The financial transactions of the board are subject to
2 audit by the state auditor in accordance with Chapter 321,
3 Government Code, and its subsequent amendments.

4 Sec. 14. ANNUAL FINANCIAL REPORT. The board shall file
5 annually with the governor and the presiding officer of each house
6 of the legislature a complete and detailed written report
7 accounting for all funds received and disbursed by the board during
8 the preceding fiscal year. The annual report must be in the form
9 and reported in the time provided by the General Appropriations
10 Act.

11 Sec. 15. PERSONNEL POLICIES. (a) The director or the
12 director's designee shall develop an intra-agency career ladder
13 program. The program shall require intra-agency posting of all
14 nonentry level positions concurrently with any public posting.

15 (b) The director or the director's designee shall develop a
16 system of annual performance evaluations based on measurable job
17 tasks. All merit pay for board employees must be based on the
18 system established under this subsection.

19 Sec. 16. EQUAL EMPLOYMENT OPPORTUNITY POLICIES. (a) The
20 director or the director's designee shall prepare and maintain a
21 written policy statement to assure implementation of a program of
22 equal employment opportunity under which all personnel transactions
23 are made without regard to race, color, disability, sex, religion,
24 age, or national origin. The policy statement must include:

25 (1) personnel policies, including policies relating to
26 recruitment, evaluation, selection, application, training, and
27 promotion of personnel that are in compliance with the Commission

1 on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes)
2 and its subsequent amendments;

3 (2) a comprehensive analysis of the board workforce
4 that meets federal and state guidelines;

5 (3) procedures by which a determination can be made of
6 significant underuse in the board workforce of all persons for whom
7 federal or state guidelines encourage a more equitable balance; and

8 (4) reasonable methods to appropriately address those
9 areas of underuse.

10 (b) A policy statement prepared under Subsection (a) of this
11 section must cover an annual period, be updated annually, be
12 reviewed by the Commission on Human Rights for compliance with
13 Subsection (a)(1) of this section, and be filed with the governor's
14 office.

15 (c) The governor's office shall deliver a biennial report to
16 the legislature based on the information received under Subsection
17 (b) of this section. The report may be made separately or as part
18 of other biennial reports to the legislature.

19 Sec. 17. PUBLIC INTEREST INFORMATION. (a) The board shall
20 prepare information of public interest describing the functions of
21 the board and the board's procedures by which complaints are filed
22 with and resolved by the board. The board shall make the
23 information available to the public and appropriate state agencies.

24 (b) The board by rule shall establish methods by which
25 consumers and service recipients are notified of the name, mailing
26 address, and telephone number of the board for the purpose of
27 directing complaints to the board. The board may provide for that

1 notification:

2 (1) on each registration form, application, or written
3 contract for services of an individual or entity regulated by the
4 board;

5 (2) on a sign prominently displayed in the place of
6 business of each individual or entity regulated by the board; or

7 (3) in a bill for service provided by an individual or
8 entity regulated by the board.

9 (c) The board shall list along with its regular telephone
10 number the toll-free telephone number that may be called to present
11 a complaint about a health professional if the toll-free number is
12 established under other state law.

13 Sec. 18. PUBLIC PARTICIPATION IN BOARD HEARINGS. The board
14 shall develop and implement policies that provide the public with a
15 reasonable opportunity to appear before the board and to speak on
16 any issue under the jurisdiction of the board.

17 Sec. 19. PROGRAM ACCESSIBILITY. The board shall prepare and
18 maintain a written plan that describes how a person who does not
19 speak English can be provided reasonable access to the board's
20 programs. The board shall also comply with federal and state laws
21 for program and facility accessibility.

22 Sec. 20. TRAINING; STANDARDS OF CONDUCT INFORMATION. (a)
23 Each board member shall comply with the board member training
24 requirements established by any other state agency that is given
25 authority to establish the requirements for the board.

26 (b) The board shall provide to its members and employees, as
27 often as necessary, information regarding their qualifications for

1 office or employment under this article and their responsibilities
2 under applicable laws relating to standards of conduct for state
3 officers or employees.

4 Sec. 21. OPEN MEETINGS AND ADMINISTRATIVE PROCEDURE. The
5 board is subject to:

6 (1) the open meetings law, Chapter 271, Acts of the
7 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's
8 Texas Civil Statutes), and its subsequent amendments; and

9 (2) the Administrative Procedure and Texas Register
10 Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its
11 subsequent amendments.

12 Sec. 22. SUNSET PROVISION. The Board of Examiners for
13 Speech and Hearing Professionals is subject to Chapter 325,
14 Government Code (Texas Sunset Act), and its subsequent amendments.
15 Unless continued in existence as provided by that chapter, the
16 board is abolished and the following laws expire September 1, 2005:

17 (1) this article;

18 (2) the speech-language and pathology law, Chapter
19 381, Acts of the 68th Legislature, Regular Session, 1983 (Article
20 4512j, Vernon's Texas Civil Statutes); and

21 (3) the law relating to the fitting and dispensing of
22 hearing aids, Chapter 366, Acts of the 61st Legislature, Regular
23 Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil
24 Statutes).

25 ARTICLE 2. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

26 SECTION 2.01. Section 2, Chapter 381, Acts of the 68th
27 Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas

1 Civil Statutes), is amended to read as follows:

2 Sec. 2. DEFINITIONS. In this Act:

3 (1) "Board" means the [~~Texas~~] Board of Examiners for
4 Speech and Hearing Professionals [~~Health~~].

5 (2) [~~"Committee"--means---the---State---Committee---of~~
6 ~~Examiners-for-Speech-language-Pathology-and-Audiology-~~

7 [~~{3}--"Department"---means---the--Texas--Department--of~~
8 ~~Health-~~

9 [~~{4}~~] "Person" means an individual, corporation,
10 partnership, or other legal entity.

11 (3) [~~{5}~~] "Speech-language pathologist" means an
12 individual who practices speech-language pathology, who makes a
13 nonmedical evaluation, who examines, counsels, or provides
14 habilitative or rehabilitative services for persons who have or are
15 suspected of having speech, voice, or language disorders, and who
16 meets the qualifications set forth in this Act.

17 (4) [~~{6}~~] "The practice of speech-language pathology"
18 means the application of nonmedical principles, methods, and
19 procedures for the measurement, testing, evaluation, prediction,
20 counseling, habilitation, rehabilitation, or instruction related to
21 the development and disorders of speech, voice, or language for the
22 purpose of rendering or offering to render an evaluation,
23 prevention, or modification of these disorders and conditions in
24 individuals or groups of individuals. Speech-language pathologists
25 may perform the basic audiometric screening tests and hearing
26 therapy procedures consistent with their training.

27 (5) [~~{7}~~] "Audiologist" means a person who practices

1 audiology, who makes a nonmedical evaluation, who examines,
2 counsels, or provides habilitative or rehabilitative services for
3 persons who have or are suspected of having a hearing disorder, and
4 who meets the qualifications set forth in this Act.

5 (6) [~~8~~] "The practice of audiology" means the
6 application of nonmedical principles, methods, and procedures for
7 the measurement, testing, appraisal, prediction, consultation,
8 counseling, habilitation, rehabilitation, or instruction related to
9 hearing and disorders of hearing and for the purpose of rendering
10 or offering to render services modifying communicative disorders
11 involving speech, language, auditory function, or other aberrant
12 behavior relating to hearing loss. An audiologist may engage in
13 any tasks, procedures, acts, or practices that are necessary (A)
14 for the evaluation of hearing; (B) for training in the use of
15 amplification including hearing aids; or (C) for the making of
16 earmolds for hearing aids. An audiologist may participate in
17 consultation regarding noise control and hearing conservation, may
18 provide evaluations of environment or equipment including
19 calibration of equipment used in testing auditory functioning and
20 hearing conservation, and may perform the basic speech and language
21 screening tests and procedures consistent with his or her training.

22 (7) [~~9~~] "Speech-language pathology aide" means a
23 person who meets minimum qualifications which the board [~~committee~~]
24 may establish for speech-language pathology aides and who works
25 under the direction of a licensed speech-language pathologist. The
26 qualifications for licensure as a speech-language pathology aide
27 shall be uniform and shall be less than those established by this

1 Act as necessary for licensure as a speech-language pathologist.

2 (8) ~~(10)~~ "Audiology aide" means a person who meets
3 minimum qualifications which the board ~~[committee]~~ may establish
4 for audiology aides and who works under the direction of a licensed
5 audiologist. The qualifications for licensure as an audiology aide
6 shall be uniform and shall be less than those established by this
7 Act as necessary for licensure as an audiologist.

8 SECTION 2.02.. Section 5, Chapter 381, Acts of the 68th
9 Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas
10 Civil Statutes), is amended to read as follows:

11 Sec. 5. DUTIES AND POWERS OF THE BOARD ~~[COMMITTEE]~~. (a)
12 The board ~~[Subject-to-the-approval-of--the--board,--the--committee]~~
13 shall adopt rules necessary to administer and enforce this Act,
14 including rules that establish standards of ethical practice.

15 (b) The board ~~[With-the-assistance-of--the--department,--the~~
16 ~~committee]~~ shall administer, coordinate, and enforce the provisions
17 of this Act; evaluate the qualifications of applicants; provide for
18 the examination of applicants; and issue subpoenas, examine
19 witnesses, and administer oaths under the laws of the State of
20 Texas.

21 (c) The board ~~[With-the-assistance-of-the-department-and-in~~
22 ~~accordance-with-the-Administrative--Procedure--and--Texas--Register~~
23 ~~Act,--as-amended-(Article-6252-13a,--Vernon's-Texas-Civil-Statutes),~~
24 ~~the-committee]~~ shall ~~[conduct--hearings--and]~~ keep records and
25 minutes necessary to the orderly administration of this Act.

26 (d) The board ~~[The-committee-with-the-aid-of-the-department]~~
27 shall investigate persons engaging in practices that violate the

1 provisions of this Act.

2 (e) A person who holds a license to practice speech-language
3 pathology or audiology in this state is governed and controlled by
4 the rules adopted by the ~~[committee-and-approved-by-the]~~ board ~~[of~~
5 ~~health]~~.

6 (f) The conferral or enumeration of specific powers
7 elsewhere in this Act shall not be construed as a limitation of the
8 general powers conferred by this section.

9 ~~[(g)--The--committee--shall--be--represented--by--the--attorney~~
10 ~~general--and--the--district--and--county--attorneys--of--this--state--~~

11 ~~[(h)--The--committee--may--appoint--subcommittees--to--work--under~~
12 ~~its-jurisdiction,--subject--to--the--approval--of--the--board--]~~

13 SECTION 2.03. Sections 9(b) and (1), Chapter 381, Acts of
14 the 68th Legislature, Regular Session, 1983 (Article 4512j,
15 Vernon's Texas Civil Statutes), are amended to read as follows:

16 (b) This Act does not prevent or restrict the activities and
17 services and the use of an official title by persons holding a
18 valid and current certification in speech and hearing therapy from
19 the Central Education Agency if those persons perform
20 speech-language pathology or audiology services solely as a part of
21 their duties within an agency, institution, or organization under
22 the jurisdiction of the Central Education Agency. If persons
23 affected by this subsection perform work as a speech-language
24 pathologist or audiologist apart from their positions within an
25 agency, institution, or organization of the Central Education
26 Agency, they must have a license issued by the board ~~[committee]~~,
27 except that a person affected by this subsection may perform speech

1 and hearing screening procedures without compensation without
2 having a license issued by the board [~~committee~~].

3 (1) This Act does not prevent or restrict a person licensed
4 by the board [~~Texas--Board--of--Examiners--in--the--Fitting--and~~
5 ~~Dispensing-of-Hearing--Aids~~] from engaging in the practice of
6 fitting and dispensing hearing aids.

7 SECTION 2.04. Section 10, Chapter 381, Acts of the 68th
8 Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas
9 Civil Statutes), is amended to read as follows:

10 Sec. 10. QUALIFICATION OF APPLICANTS FOR LICENSE; INTERN
11 LICENSE. (a) To be eligible for licensing as a speech-language
12 pathologist or audiologist, an applicant must:

13 (1) possess at least a master's degree with a major in
14 speech-language pathology or audiology from an accredited or
15 approved college or university;

16 (2) submit transcripts from one or more colleges or
17 universities showing successful completion of course work in
18 amounts set by the [~~committee-with-the-approval-of--the~~] board in
19 the following areas:

20 (A) information about normal development and use
21 of speech, language, and hearing;

22 (B) information about evaluation, habilitation,
23 and rehabilitation of speech, language, and hearing disorders; and

24 (C) information pertaining to related fields
25 that augment the work of clinical practitioners of speech-language
26 pathology and audiology;

27 (3) have successfully completed at least 30 semester

1 hours in courses that are acceptable toward a graduate degree by
2 the college or university in which they are taken, at least 21 of
3 which are within the professional area for which the license is
4 requested and at least six of which are in audiology for the
5 applicant for a speech-language pathology license or in
6 speech-language pathology for the applicant for a license in
7 audiology;

8 (4) have completed a minimum of 300 clock hours of
9 supervised clinical experience with individuals who present a
10 variety of communication disorders, and this experience must have
11 been obtained within his or her training institution or in one of
12 its cooperating programs and under the supervision of a person
13 holding a valid license to practice speech-language pathology or
14 audiology, provided during the first year of this Act, the
15 supervision may be under a person who would have met the
16 qualifications for a license under this Act; and

17 (5) have obtained the equivalent of nine months of
18 full-time supervised professional experience in which bona fide
19 clinical work has been accomplished in the major professional area
20 for which the license is being sought, under the supervision of a
21 qualified person acceptable to the board [~~committee~~] pursuant to
22 guidelines approved by the board which experience must have begun
23 after completion of the academic and clinical experience required
24 by this section.

25 (b) An applicant who has completed the requirements for a
26 master's degree required for a license under this Act but who has
27 not had the degree officially conferred on the applicant may be

1 licensed as an intern under this Act if the applicant meets all
2 other requirements of Subsection (a) of this section. The board by
3 rule shall prescribe the terms by which an applicant may practice
4 under an intern's license under this subsection.

5 SECTION 2.05. Section 11, Chapter 381, Acts of the 68th
6 Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas
7 Civil Statutes), is amended to read as follows:

8 Sec. 11. APPLICATION FOR LICENSE. Each person desiring a
9 license under this Act shall make application to the board
10 [~~committee~~] on a form and in the manner the board [~~committee~~]
11 prescribes. The application shall be accompanied by the
12 application fee which may not be refunded by the board [~~committee~~].

13 SECTION 2.06. Section 12, Chapter 381, Acts of the 68th
14 Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas
15 Civil Statutes), is amended to read as follows:

16 Sec. 12. EXAMINATION. (a) Each applicant shall be examined
17 by the board [~~committee~~] and shall pay to the board [~~committee~~], at
18 least 30 days prior to the date of examination, a nonrefundable
19 examination fee prescribed by the board [~~committee~~]. The
20 examination shall be given at least twice each year at a time and
21 place established by and under the supervision of the board
22 [~~committee~~].

23 (b) The board by rule may establish procedures for the
24 administration of the examination. The board [~~committee~~] may
25 examine by written or oral examination or by both. The board shall
26 have the written portion of the examination, if any, validated by
27 an independent testing professional. The board [~~committee~~] shall

1 maintain a record of all examination scores for at least two years
2 after the date of examination.

3 (c) Standards for acceptable performance shall be determined
4 by the board [~~committee~~].

5 (d) The board [~~committee~~] may examine in whatever
6 theoretical or applied fields of speech-language pathology or
7 audiology it deems appropriate. It may examine the candidates with
8 regard to their professional skills and their judgment in the
9 utilization of speech-language pathology or audiology techniques or
10 methods.

11 (e) Persons who fail the examination may be examined at a
12 subsequent time if they pay another nonrefundable examination fee.
13 No applicant who has taken and failed to pass two examinations may
14 take the examination until the person has submitted a new
15 application together with a nonrefundable application fee and
16 presented evidence to the board [~~committee~~] of additional study in
17 the area for which licensure is sought. If requested in writing by
18 a person who fails a licensing examination administered under this
19 Act, the board shall furnish the person with an analysis of the
20 person's performance on the examination.

21 (f) Not later than the 30th day after the date on which a
22 licensing examination is administered under this Act, the board
23 shall notify each examinee of the results of the examination.
24 However, if an examination is graded or reviewed by a national
25 testing service, the board shall notify examinees of the results of
26 the examination not later than the 14th day after the date on which
27 the board receives the results from the testing service. If the

1 notice of examination results graded or reviewed by a national
2 testing service will be delayed for longer than 90 days after the
3 examination date, the board shall notify the examinee of the reason
4 for the delay before the 90th day. [~~The-committee-may-waive-the~~
5 ~~examination-for-applicants-who-~~

6 [~~(1)--present-proof-of--current--licensure--in--another~~
7 ~~state,--including--the--District--of--Columbia,--or-territory-of-the~~
8 ~~United-States-which-maintains-professional-standards-considered--by~~
9 ~~the-committee-to-be-equivalent-to-those-set-forth-in-this-Act,--or~~

10 [~~(2)--hold--the--Certificate--of--Clinical--Competence--of~~
11 ~~the-American-Speech-Language-Hearing-Association-in--the--area--for~~
12 ~~which-a-license-is-being-sought-]~~

13 SECTION 2.07. The heading of Section 13, Chapter 381, Acts
14 of the 68th Legislature, Regular Session, 1983 (Article 4512j,
15 Vernon's Texas Civil Statutes), is amended to read as follows:

16 Sec. 13. PRIOR LICENSING UNDER SPECIAL CONDITIONS.

17 SECTION 2.08. Sections 13(a) and (b), Chapter 381, Acts of
18 the 68th Legislature, Regular Session, 1983 (Article 4512j,
19 Vernon's Texas Civil Statutes), are amended to read as follows:

20 (a) On [~~The---committee---on~~] request the [~~must--waive~~]
21 educational, professional experience, and examination requirements
22 for licensure in speech-language pathology were waived for
23 applicants who held [~~hold~~] a baccalaureate or graduate degree, were
24 [~~are~~] fully certified by the Central Education Agency in speech and
25 hearing therapy or [~~in-the-judgment--of--the--committee--have~~] met
26 equivalent requirements, and within two years prior to the
27 effective date of this Act were engaged in the practice of speech

1 pathology on proof of bona fide practice of speech pathology,
2 presented [~~to-the-committee~~] in the manner prescribed by rule [~~the~~
3 ~~committee's--rules~~], provided they filed [~~file~~] an application for
4 licensure [~~with-the--committee--or--the--board--of--health~~] before
5 January 1, 1986. Such licenses [~~shall-be-issued-without-delay-and~~]
6 shall be renewed in the same manner as licenses granted under other
7 provisions of this Act.

8 (b) On [~~The---committee--on~~] request the [~~shall--waive~~]
9 educational and professional experience requirements for a license
10 in audiology were waived for an applicant who, on the effective
11 date of this Act, held [~~holds~~] a graduate degree from an accredited
12 institution of higher education with a major in speech-language
13 pathology or audiology, and was [~~has-been~~] continuously engaged in
14 the practice of audiology for ten years immediately preceding the
15 effective date of this Act, provided the applicant filed [~~files~~] an
16 application for licensure [~~with-the-committee~~] on or before January
17 1, 1986. Such an applicant must have passed [~~pass~~] the licensing
18 examination under Section 12 of this Act not later than August 31,
19 1986.

20 SECTION 2.09. Chapter 381, Acts of the 68th Legislature,
21 Regular Session, 1983 (Article 4512j, Vernon's Texas Civil
22 Statutes), is amended by adding Section 13A and by amending and
23 redesignating Sections 13(c) and (d) as Sections 13A(a) and (e) to
24 read as follows:

25 Sec. 13A. PROVISIONAL LICENSE; OTHER LICENSE WITHOUT
26 EXAMINATION. (a) [~~the~~] The board [~~committee~~] may [~~waive--the~~
27 ~~examination--and~~] grant a provisional license [~~licensure~~] to an

1 applicant who presents proof of current licensure in another state,
2 including the District of Columbia, or territory of the United
3 States which maintains professional standards considered by the
4 board [committee] to be equivalent to those set forth in this Act.
5 An applicant for a provisional license under this section must:

6 (1) be licensed in good standing as a speech-language
7 pathologist or an audiologist in another state, the District of
8 Columbia, or a territory of the United States that has licensing
9 requirements that are substantially equivalent to the requirements
10 of this Act;

11 (2) have passed a national or other examination
12 recognized by the board relating to speech-language pathology or
13 audiology; and

14 (3) be sponsored by a person licensed by the board
15 under this Act with whom the provisional license holder may
16 practice under this section.

17 (b) An applicant for a provisional license may be excused
18 from the requirement of Subsection (a)(3) of this section if the
19 board determines that compliance with that subsection constitutes a
20 hardship to the applicant.

21 (c) A provisional license is valid until the date the board
22 approves or denies the provisional license holder's application for
23 a license. The board shall issue a license under this Act to the
24 holder of a provisional license under this section if:

25 (1) the provisional license holder passes the
26 examination required by Section 12 of this Act;

27 (2) the board verifies that the provisional license

1 holder has the academic and experience requirements for a license
2 under this Act; and

3 (3) the provisional license holder satisfies any other
4 license requirements under this Act.

5 (d) The board must complete the processing of a provisional
6 license holder's application for a license not later than the 180th
7 day after the date the provisional license is issued.

8 (e) [†d†] The board [committee] may waive the examination
9 and grant licensure to an applicant who holds the Certificate of
10 Clinical Competence of the American Speech-Language Hearing
11 Association or has met equivalent requirements in the area for
12 which a license is sought.

13 SECTION 2.10. Sections 14(a), (c), and (d), Chapter 381,
14 Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j,
15 Vernon's Texas Civil Statutes), are amended to read as follows:

16 (a) The board [committee] shall issue a license to an
17 applicant who meets the requirements of this Act and who pays to
18 the board [committee] the initial nonrefundable license fee.

19 (c) On receiving an application provided for under
20 Subsection (b) of this section accompanied by the nonrefundable
21 application fee, the board [committee] shall issue a temporary
22 certificate of registration which entitles the applicant to
23 practice audiology or speech-language pathology for a period ending
24 eight weeks after the conclusion of the next examination given
25 after the date of issue.

26 (d) The board by rule may adopt a system under which
27 licenses expire on various dates during the year. For the year in

1 which the license expiration date is changed, license fees payable
2 on the original expiration date shall be prorated on a monthly
3 basis so that each licensee shall pay only that portion of the
4 license fee that is allocable to the number of months during which
5 the license is valid. On renewal of the license on the new
6 expiration date, the total license renewal fee is payable [A++
7 ~~licenses--expire--and--become--invalid--one--year--from--the--date--of~~
8 ~~issuance--if--not--renewed~~].

9 SECTION 2.11. Chapter 381, Acts of the 68th Legislature,
10 Regular Session, 1983 (Article 4512j, Vernon's Texas Civil
11 Statutes), is amended by adding Section 14A to read as follows:

12 Sec. 14A. TEMPORARY LICENSE; INACTIVE STATUS. (a) The
13 board by rule may provide for the issuance of a temporary license.

14 (b) The board by rule may provide for a person who holds a
15 license under this Act to be placed on inactive status. Rules
16 adopted under this section shall include a time limit for a license
17 holder to remain on inactive status.

18 SECTION 2.12. Section 15, Chapter 381, Acts of the 68th
19 Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas
20 Civil Statutes), is amended to read as follows:

21 Sec. 15. RENEWAL OF LICENSE. (a) A person may renew an
22 unexpired license by paying to the board before the expiration of
23 the license the required renewal fee.

24 (b) If a person's license has been expired for 90 days or
25 less, the person may renew the license by paying to the board the
26 required renewal fee and a fee that is one-half of the examination
27 fee for the license.

1 (c) If a person's license has been expired for longer than
2 90 days but less than one year, the person may renew the license by
3 paying to the board all unpaid renewal fees and a fee that is equal
4 to the examination fee for the license [~~Each--licensed~~
5 ~~speech-language-pathologist-or-audiologist-shall-annually-pay-the~~
6 ~~nonrefundable--renewal--fee-for-a-renewal-of-his-license.--A-60-day~~
7 ~~grace-period-shall-be--allowed.---After--expiration--of--the--grace~~
8 ~~period,--the--committee--may--renew-each-license-after-payment-of-a~~
9 ~~penalty-set-by-the-rules.--No-person-who-applies-for-renewal-within~~
10 ~~two-years-after-the-date--of--expiration--of--the--license--may--be~~
11 ~~required-to-submit-to-an-examination-as-a-condition-to-renewal~~].

12 (d) If a person's [~~(b)--Persons--who-fail-to-renew-their~~
13 license has been expired for one year or longer, the person [~~within~~
14 ~~two-years-after-the-date-of--its--expiration]~~ may not renew the
15 license [~~it,--and--it-may-not-be-restored,--reissued,--or-reinstated~~
16 ~~thereafter,--but-those-persons--may--apply--for--and--obtain--a--new~~
17 ~~license-if-they-meet-the-requirements-of-this-Act]~~. The person may
18 obtain a new license by submitting to reexamination and complying
19 with the requirements and procedures for obtaining an original
20 license. However, the board may renew without reexamination an
21 expired license of a person who was licensed in this state, moved
22 to another state, and is currently licensed and has been in
23 practice in the other state for the two years preceding
24 application. The person must pay to the board a fee that is equal
25 to the examination fee for the license.

26 (e) At least 30 days before the expiration of a person's
27 license, the board shall send written notice of the impending

1 license expiration to the person at the licensee's last known
2 address according to the records of the board.

3 (f) The board by rule shall establish a minimum number of
4 hours of continuing education required to renew a license under
5 this Act. The board may assess the continuing education needs of
6 license holders and may require license holders to attend
7 continuing education courses specified by the board. The board by
8 rule shall develop a process to evaluate and approve continuing
9 education courses.

10 (g) The board shall identify the key factors for the
11 competent performance by a license holder of the license holder's
12 professional duties. The board shall adopt a procedure to assess a
13 license holder's participation in continuing education programs.

14 ~~[(e)--Within-three-years-of-the-effective-date-of--this--Act,~~
15 ~~renewal--of--a--license--is--contingent--on-the-applicant's-meeting~~
16 ~~uniform--continuing--education--requirements--established--by--the~~
17 ~~committee.--These-continuing-education-requirements-must-be-of-such~~
18 ~~a--nature--that--they--can-be-met-without-necessitating-an-extended~~
19 ~~absence-from--the--licensee's--county--of--residence.----Notice--of~~
20 ~~continuing--education--requirements--shall--be--sent-to-all-persons~~
21 ~~licensed-under-this-Act-at-least-12-months-prior-to-the--time--that~~
22 ~~the--person's--license--renewal--is--dependent-on-completion-of-the~~
23 ~~requirements.--Continuing-education-requirements-shall-be--sent--to~~
24 ~~new--applicants--with--the--forms--on--which--they-are-to-apply-for~~
25 ~~licensure.---Notification--or--changes--in--continuing--education~~
26 ~~requirements--shall--be--sent-to-persons-licensed-under-this-Act-at~~
27 ~~least-one-year-prior-to-the-date--on--which--the--new--requirements~~

1 ~~become-effective.]~~

2 (h) [(d)] A suspended license is subject to expiration and
3 may be renewed as provided in this Act, but the renewal does not
4 entitle the licensee, while the license remains suspended and until
5 it is reinstated, to engage in the licensed activity or in any
6 other activity or conduct in violation of the order or judgment by
7 which the license was suspended. A license revoked on disciplinary
8 grounds is subject to expiration as provided in this Act, but it
9 may not be renewed. If it is reinstated after its expiration, the
10 licensee as a condition of reinstatement shall pay a reinstatement
11 fee in an amount equal to the renewal fee in effect on the last
12 preceding regular renewal date before the date on which it is
13 reinstated, plus the delinquency fee, if any, accrued at the time
14 of the license revocation.

15 SECTION 2.13. Section 16, Chapter 381, Acts of the 68th
16 Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas
17 Civil Statutes), is amended to read as follows:

18 Sec. 16. FEES. ~~[The-amount-of-fees-initially-prescribed-in~~
19 ~~connection-with-a--license--as--a--speech-language--pathologist--or~~
20 ~~audiologist-may-not-exceed-the-following:~~

21 [(1)--application-fee:-----\$75

22 [(2)--examination-fee:-----\$50

23 [(3)--initial-license-fee:----\$75

24 [(4)--license-renewal-fee:----\$75

25 [(5)--delinquency-fee:-----\$50

26 [(6)--temporary-license-fee:--\$25

27 [(7)--duplicate-license-fee:--\$10]

1 The board [~~committee~~] by rule shall establish reasonable and
2 necessary fees so that the fees, in the aggregate, produce
3 sufficient revenue to cover the cost of administering this Act.
4 ~~The[7--and--such]~~ fees set by the board may [~~shall~~] be adjusted so
5 that the total fees collected shall be sufficient to meet the
6 expenses of administering this Act [~~and--so--that--unnecessary~~
7 ~~surpluses--in--the--fund-provided-for-in-Section-20-of-this-Act-are~~
8 ~~avoided~~]. The board may not set a fee for an amount less than the
9 amount of that fee on September 1, 1993.

10 SECTION 2.14. Section 17, Chapter 381, Acts of the 68th
11 Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas
12 Civil Statutes), is amended to read as follows:

13 Sec. 17. DENIAL, SUSPENSION, AND REVOCATION. (a) The board
14 ~~[committee]~~ may refuse to issue a license to an applicant or may
15 suspend or revoke the license of any licensee for any of the
16 following causes:

17 (1) obtaining a license by means of fraud,
18 misrepresentation, or concealment of material facts;

19 (2) selling, bartering, or offering to sell or barter
20 a license or certificate of registration;

21 (3) unprofessional conduct that has endangered or is
22 likely to endanger the health, welfare, or safety of the public as
23 defined by the rules established by the board [~~committee~~] or
24 violation of the code of ethics adopted and published by the board
25 ~~[committee]~~;

26 (4) violating any lawful order or rule rendered or
27 adopted by the board [~~committee~~]; or

1 (5) violating any provisions of this Act.

2 (b) The board [~~committee~~] shall deny an application for or
3 suspend or revoke or impose probationary conditions on a license as
4 ordered by the board [~~committee~~] in any decision made after hearing
5 as provided in this Act. One year from the date of revocation of a
6 license under this Act, application may be made to the board
7 [~~committee~~] for reinstatement. The board [~~committee~~] shall have
8 discretion to accept or reject an application for reinstatement and
9 may require an examination for the reinstatement.

10 (c) A plea or verdict of guilty or a conviction following a
11 plea of nolo contendere made to a charge of a felony or of an
12 offense involving moral turpitude is deemed to be a conviction
13 within the meaning of this Act. At the direction of the board
14 [~~committee~~] the license may be suspended or revoked or the board
15 [~~committee~~] may decline to issue a license when the time for appeal
16 of the conviction has elapsed or the judgment or conviction has
17 been affirmed on appeal, or when an order granting probation is
18 made suspending the imposition of sentence irrespective of a
19 subsequent order allowing a person to withdraw his or her plea of
20 guilty, or setting aside the verdict of guilty, or dismissing the
21 information or indictment.

22 (d) In addition to the other disciplinary actions authorized
23 by this section, the board may issue a written reprimand to a
24 license holder who violates this Act or require that a license
25 holder who violates this Act participate in continuing education
26 programs. The board shall specify the continuing education
27 programs that may be attended and the number of hours that must be

1 completed by an individual license holder to fulfill the
2 requirements of this subsection.

3 (e) If a license suspension is probated, the board may
4 require the license holder to:

5 (1) report regularly to the board on matters that are
6 the basis of the probation;

7 (2) limit practice to the areas prescribed by the
8 board; or

9 (3) continue or review continuing professional
10 education until the license holder attains a degree of skill
11 satisfactory to the board in those areas that are the basis of the
12 probation.

13 (f) The schedule of sanctions adopted by the board by rule
14 shall be used by the State Office of Administrative Hearings for
15 any sanction imposed as the result of a hearing conducted by that
16 office.

17 SECTION 2.15. Section 18(b), Chapter 381, Acts of the 68th
18 Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas
19 Civil Statutes), is amended to read as follows:

20 (b) If a person other than a licensed speech-language
21 pathologist or audiologist has engaged in any act or practice which
22 constitutes an offense under this Act, a district court of any
23 county on application of the board [~~committee~~] may issue an
24 injunction or other appropriate order restraining such conduct.

25 SECTION 2.16. Section 19, Chapter 381, Acts of the 68th
26 Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas
27 Civil Statutes), is amended to read as follows:

1 Sec. 19. PROCEDURES FOR DENIAL, REVOCATION, OR SUSPENSION OF
2 A LICENSE. (a) A person whose application for a license is denied
3 is entitled to a hearing before the State Office of Administrative
4 Hearings [committee] if such person submits a written request to
5 the board [committee].

6 (b) Proceedings for revocation or suspension of a license
7 shall be commenced by filing charges with the board [committee] in
8 writing and under oath. The charges may be made by any person or
9 persons.

10 (c) [~~The chairperson of the committee shall fix a time and~~
11 ~~place for a hearing and shall cause a written copy of the charges~~
12 ~~or reason for denial of a license, together with a notice of the~~
13 ~~time and place fixed for the hearing, to be served on the applicant~~
14 ~~requesting the hearing or the licensee against whom the charges~~
15 ~~have been filed at least 20 days prior to the date set for the~~
16 ~~hearing. Service of charges and notice of hearing may be given by~~
17 ~~certified mail to the last known address of the licensee or~~
18 ~~applicant.~~

19 [~~(d)~~ At the hearing the applicant or licensee has the right
20 to appear either personally or by counsel or both, to produce
21 witnesses, to have subpoenas issued by the committee, and to
22 cross-examine opposing or adverse witnesses.

23 [~~(e)~~] The board [committee] shall [~~determine the charges on~~
24 ~~their merits and~~] enter an order in a permanent record setting
25 forth the findings of fact and law and the action taken by the
26 State Office of Administrative Hearings. A copy of the order [~~of~~
27 ~~the committee~~] shall be mailed to the applicant or licensee at his

1 or her last known address by certified mail.

2 (d) [(f)] An individual whose application for a license has
3 been refused or whose license has been cancelled, revoked, or
4 suspended by the board [~~committee~~] may take an appeal, within 20
5 days after the order is entered by the State Office of
6 Administrative Hearings, to any district court of Travis County or
7 to any district court of the county of his or her residence.

8 (e) [(g)] In all appeals prosecuted in any of the courts of
9 this state pursuant to the provisions of this Act, such trials
10 shall be de novo as that term is used and understood in appeals
11 from justice of the peace courts. Under no circumstances shall the
12 substantial evidence rule as interpreted and applied by the courts
13 in Texas in other cases ever be used or applied to appeals
14 prosecuted under the provisions of this Act.

15 (f) [(h)] All proceedings under this Act shall conform to
16 the requirements of the Administrative Procedure and Texas Register
17 Act, as amended (Article 6252-13a [~~6252-13g~~], Vernon's Texas Civil
18 Statutes), except as modified by this section.

19 SECTION 2.17. Section 20, Chapter 381, Acts of the 68th
20 Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas
21 Civil Statutes), is amended to read as follows:

22 Sec. 20. DISPOSITION OF FUNDS RECEIVED. (a) All funds
23 received by the board [~~committee~~] under this Act shall be deposited
24 in accordance with applicable state law in the State Treasury in a
25 separate fund to be known as the speech-language pathology and
26 audiology fund and be appropriated to the board [~~Texas--Department~~
27 ~~of-Health~~] solely for administration of this Act.

1 (b) All [~~After--August--31,--1984,--all~~] expenses for the
2 administration of the Act shall be paid from fees collected by the
3 board [~~committee~~] under this Act.

4 [~~(c)--There---is---hereby---appropriated---\$80,000---to---the~~
5 ~~speech-language-pathology-and-audiology-fund-for-the-implementation~~
6 ~~of-this-Act,-said-funds-coming-from-the-General--Revenue--Fund--for~~
7 ~~the--first--year-provided-that-the-first-\$80,000-of-application-and~~
8 ~~license-fees-shall-be-retained-to-the-General-Revenue-Fund-as--they~~
9 ~~are-received.-]~~

10 SECTION 2.18. Chapter 381, Acts of the 68th Legislature,
11 Regular Session, 1983 (Article 4512j, Vernon's Texas Civil
12 Statutes), is amended by adding Section 23 to read as follows:

13 Sec. 23. COMPLAINT PROCEDURE IN GENERAL. (a) The board
14 shall keep an information file about each complaint filed with the
15 board. The board's information file shall be kept current and
16 contain a record for each complaint of:

17 (1) all persons contacted in relation to the
18 complaint;

19 (2) a summary of findings made at each step of the
20 complaint process;

21 (3) an explanation of the legal basis and reason for a
22 complaint that is dismissed; and

23 (4) other relevant information.

24 (b) If a written complaint is filed with the board that the
25 board has authority to resolve, the board, at least as frequently
26 as quarterly and until final disposition of the complaint, shall
27 notify the parties to the complaint of the status of the complaint

1 unless the notice would jeopardize an undercover investigation.

2 (c) The board by rule shall adopt a form to standardize
3 information concerning complaints made to the board. The board by
4 rule shall prescribe information to be provided to a person when
5 the person files a complaint with the board.

6 (d) The board shall provide reasonable assistance to a
7 person who wishes to file a complaint with the board.

8 SECTION 2.19. Chapter 381, Acts of the 68th Legislature,
9 Regular Session, 1983 (Article 4512j, Vernon's Texas Civil
10 Statutes), is amended by adding Sections 24 and 25 to read as
11 follows:

12 Sec. 24. COMPLAINT INVESTIGATION AND DISPOSITION. (a) The
13 board shall adopt rules concerning the investigation of a complaint
14 filed with the board. The rules adopted under this subsection
15 shall:

16 (1) distinguish between categories of complaints;
17 (2) ensure that complaints are not dismissed without
18 appropriate consideration;

19 (3) require that the board be advised of a complaint
20 that is dismissed and that a letter be sent to the person who filed
21 the complaint explaining the action taken on the dismissed
22 complaint;

23 (4) ensure that the person who filed the complaint has
24 an opportunity to explain the allegations made in the complaint;
25 and

26 (5) prescribe guidelines concerning the categories of
27 complaints that require the use of a private investigator and the

1 procedures for the board to obtain the services of a private
2 investigator.

3 (b) The board shall dispose of all complaints in a timely
4 manner. The board shall establish a schedule for conducting each
5 phase of a complaint that is under the control of the board not
6 later than the 30th day after the date the complaint is received by
7 the board. The schedule shall be kept in the information file for
8 the complaint and all parties shall be notified of the projected
9 time requirements for pursuing the complaint. A change in the
10 schedule must be noted in the complaint information file and all
11 parties to the complaint must be notified not later than the
12 seventh day after the date the change is made.

13 (c) The director of the board shall notify the board of a
14 complaint that extends beyond the time prescribed by the board for
15 resolving the complaint so that the board may take necessary action
16 on the complaint.

17 Sec. 25. INFORMAL PROCEEDINGS. (a) The board by rule shall
18 adopt procedures governing:

19 (1) informal disposition of a contested case under
20 Section 13(e), Administrative Procedure and Texas Register Act
21 (Article 6252-13a, Vernon's Texas Civil Statutes), and its
22 subsequent amendments; and

23 (2) informal proceedings held in compliance with
24 Section 18(c), Administrative Procedure and Texas Register Act
25 (Article 6252-13a, Vernon's Texas Civil Statutes), and its
26 subsequent amendments.

27 (b) Rules adopted under this section must provide the

1 complainant and the licensee an opportunity to be heard and must
2 require the presence of a representative of the office of the
3 attorney general to advise the board or board's employees.

4 SECTION 2.20. Chapter 381, Acts of the 68th Legislature,
5 Regular Session, 1983 (Article 4512j, Vernon's Texas Civil
6 Statutes), is amended by adding Section 25 to read as follows:

7 Sec. 25. MONITORING OF LICENSE HOLDER. The board by rule
8 shall develop a system for monitoring license holders' compliance
9 with the requirements of this Act. Rules adopted under this
10 section shall include procedures for monitoring a license holder
11 who is ordered by the board to perform certain acts to ascertain
12 that the license holder performs the required acts and to identify
13 and monitor license holders who represent a risk to the public.

14 SECTION 2.21. Chapter 381, Acts of the 68th Legislature,
15 Regular Session, 1983 (Article 4512j, Vernon's Texas Civil
16 Statutes), is amended by adding Section 26 to read as follows:

17 Sec. 26. COMPETITIVE BIDDING; ADVERTISING. (a) The board
18 may not adopt rules restricting competitive bidding or advertising
19 by a person regulated by the board except to prohibit false,
20 misleading, or deceptive practices by the person.

21 (b) The board may not include in its rules to prohibit
22 false, misleading, or deceptive practices by a person regulated by
23 the board a rule that:

24 (1) restricts the use of any medium for advertising;

25 (2) restricts the person's personal appearance or use
26 of the person's voice in an advertisement;

27 (3) relates to the size or duration of an

1 advertisement by the person; or

2 (4) restricts the person's advertisement under a trade
3 name.

4 ARTICLE 3. FITTERS AND DISPENSERS OF HEARING AIDS

5 SECTION 3.01. Section 1(a), Chapter 366, Acts of the 61st
6 Legislature, Regular Session, 1969 (Article 4566-1.01, Vernon's
7 Texas Civil Statutes), is amended to read as follows:

8 (a) "Board" means the [~~Texas~~] Board of Examiners for Speech
9 [in-the-Fitting] and [Dispensing-of] Hearing Professionals [Aids].

10 SECTION 3.02. Sections 4(b)-(i), Chapter 366, Acts of the
11 61st Legislature, Regular Session, 1969 (Article 4566-1.04,
12 Vernon's Texas Civil Statutes), are amended to read as follows:

13 (b) [~~The--Board--shall--have--the--power--to--appoint--committees~~
14 ~~from-its-own-membership,--the--duties--of--which--shall--be--to--consider~~
15 ~~such--matters,--pertaining--to--the--enforcement--of--this--Act,--as--shall~~
16 ~~be--referred--to--said--committees,--and--they--shall--make--recommendations~~
17 ~~to--the--Board--in--respect--thereto.~~

18 [~~(c)--The--Board--shall--have--the--power--to--employ--the--services~~
19 ~~of---stenographers,---inspectors,---agents,---attorneys,---and---other~~
20 ~~necessary--assistants--in--carrying--out--the--provisions--of--this--Act.~~

21 [~~(d)~~] The Board, by majority vote, shall have the power to
22 issue subpoenas and subpoenas duces tecum to compel the attendance
23 of witnesses and the production of books, records and documents, to
24 administer oaths and to take testimony concerning all matters
25 within its jurisdiction under this Act.

26 (c) [~~(e)~~] The Board shall have the right to institute an
27 action in its own name to enjoin the violation of any of the

1 provisions of this Act. Said action for injunction shall be in
2 addition to any other action, proceeding or remedy authorized by
3 law.

4 (d) [~~f~~] The Board is charged with the duty of aiding in
5 the enforcement of this Act, and any member of the Board may
6 present to the Attorney General or a County or District Attorney of
7 this state complaints relating to violations of any provision of
8 this Act; and the Board through the members, officers, counsel, and
9 agents may assist in the trial of any case involving alleged
10 violations of this Act, subject to the control of the Attorney
11 General, County Attorney, or District Attorney charged with the
12 responsibility of prosecuting such case.

13 [~~g~~---Before---entering---upon---the---discharge-of-the-duties-of
14 such-office, the Secretary-Treasurer of the Board shall---give---such
15 bond-for-the-performance-of-this-duty-as-the-Board-may-require, the
16 premium-of-such-bond-is-to-be-paid-from-any-available-funds.

17 [~~h~~---The---Board-shall-adopt-an-official-seal-and-the-form-of
18 a-license-of-suitable-design-and-shall-have-an-office-where-all-the
19 permanent-records-shall-be-kept.]

20 (e) [~~i~~] The Board by rule shall adopt requirements for
21 mandatory [~~the~~] continuing education for [~~of~~] licensees under this
22 Act in subjects pertaining to the fitting and dispensing of hearing
23 aids. The Board by rule shall establish a minimum number of hours
24 of continuing education required to renew a license. The Board may
25 assess the continuing education needs of license holders and may
26 require license holders to attend continuing education courses
27 specified by the Board. The Board by rule shall develop a process

1 to evaluate and approve continuing education courses [~~may--approve~~
2 ~~specific--courses--of--instruction--or--establish--minimum--content~~
3 ~~requirements--of--courses--of--continuing-professional-education-and~~
4 ~~provide-programs-for-continuing-education~~].

5 (f) The Board shall identify the key factors for the
6 competent performance by a license holder of the license holder's
7 professional duties. The Board shall adopt a procedure to assess a
8 license holder's participation and performance in continuing
9 education programs.

10 SECTION 3.03. Sections 6(a) and (c), Chapter 366, Acts of
11 the 61st Legislature, Regular Session, 1969 (Article 4566-1.06,
12 Vernon's Texas Civil Statutes), are amended to read as follows:

13 (a) Every person desiring to engage in fitting and
14 dispensing hearing aids in the State of Texas shall be required to
15 pass an examination given by the [Texas] Board [~~of-Examiners-in-the~~
16 ~~Fitting-and-Dispensing-of-Hearing-Aids~~].

17 (c) The examination shall consist of written, oral or
18 practical tests that shall be objective in method and applied in a
19 consistent manner. The Board shall have the written portion of the
20 examination validated by an independent testing professional. The
21 examination shall cover the following areas as they relate to the
22 fitting and dispensing of hearing aids:

- 23 (1) Basic physics of sound;
24 (2) The structure and function of hearing aids;
25 (3) Fitting of hearing aids;
26 (4) Pure tone audiometry, including air conduction
27 testing and bone conduction testing;

- 1 (5) Live voice and/or record voice speech audiometry;
2 (6) Masking when indicated;
3 (7) Recording and evaluation of audiograms and speech
4 audiometry to determine the hearing aid candidacy;
5 (8) Selection and adaption of hearing aids and testing
6 of hearing aids; and
7 (9) Taking of earmold impressions.

8 SECTION 3.04. Section 8, Chapter 366, Acts of the 61st
9 Legislature, Regular Session, 1969 (Article 4566-1.08, Vernon's
10 Texas Civil Statutes), is amended to read as follows:

11 Sec. 8. PROVISIONAL LICENSES [RECIPROCAL-ARRANGEMENTS]. (a)
12 On [Upon--proper] application, the [Texas] Board [of-Examiners-in
13 Fitting-and-Dispensing-of-Hearing-Aids] shall grant a provisional
14 license to fit and dispense hearing aids [without-requiring-an
15 examination-to-licentiates-of-other-states--or--territories--having
16 requirements--equivalent-to-or-higher-than-those-in-effect-pursuant
17 to-this-Act-for-fitting-and-dispensing-hearing-aids]. An applicant
18 for a provisional license under this section must:

19 (1) be licensed in good standing as a fitter and
20 dispenser of hearing aids in another state, the District of
21 Columbia, or a territory of the United States that has licensing
22 requirements that are substantially equivalent to the requirements
23 of this Act;

24 (2) have passed a national or other examination
25 recognized by the Board relating to the fitting and dispensing of
26 hearing aids; and

27 (3) be sponsored by a person licensed by the Board

1 under this Act with whom the provisional license holder may
2 practice under this section.

3 (b) An applicant for a provisional license may be excused
4 from the requirement of Subsection (a)(3) of this section if the
5 Board determines that compliance with that subsection constitutes a
6 hardship to the applicant.

7 (c) A provisional license is valid until the date the Board
8 approves or denies the provisional license holder's application for
9 a license. The Board shall issue a license under this Act to the
10 holder of a provisional license under this section if:

11 (1) the provisional license holder passes the
12 examination required by Section 6 of this Act;

13 (2) the Board verifies that the provisional license
14 holder has the academic and experience requirements for a license
15 under this Act; and

16 (3) the provisional license holder satisfies any other
17 license requirements under this Act.

18 (d) The Board must complete the processing of a provisional
19 license holder's application for a license not later than the 180th
20 day after the date the provisional license is issued.

21 ~~[(b)--Applications-for-license-under-the-provisions--of--this~~
22 ~~section--shall--be--in--writing--and--upon-a-form-prescribed-by-the~~
23 ~~Board.----Such---applications---shall---be----filed----with----the~~
24 ~~Secretary-Treasurer---of--the--Board.---The--application--shall--be~~
25 ~~accompanied-by-a-license-or-a-certified-copy-of-a--license--to--fit~~
26 ~~and-dispense-hearing-aids,-lawfully-issued-to-the-applicant-by-some~~
27 ~~other--state--or--territory,-and--shall--also-be-accompanied-by-an~~

1 affidavit-of-the-President-or-Secretary-of-the-Board--of--Examiners
2 in-Fitting-and-Dispensing-Hearing-Aids-who-issued-the-license.--The
3 affidavit-shall-recite-that-the-accompanying-certificate-or-license
4 has--not--been--cancelled--or--revoked,--and--that-the-statement-of
5 qualifications-made-in-this-application-for--license--in--Texas--is
6 true-and-correct.

7 [(c)--Applicants--for--a-license-under-the-provisions-of-this
8 section-shall-subscribe-to-an-oath-in-writing-which-shall-be-a-part
9 of-said-application,--stating--that--the--license,--certificate--or
10 authority-under-which-the-applicant-fits-and-dispenses-hearing-aids
11 in--the-state-or-territory-from-which-the-applicant-is-removed,--was
12 at-that-time-of-such-removal-in-full-force--and--not--suspended--or
13 cancelled,--that--the-applicant-is-the-identical-person-to-whom-the
14 said-certificate-or-license-was-issued-and-that-no--proceeding--was
15 pending-at-the-time-of-such-removal,--or-at-the-present-time-pending
16 against---the---applicant---for--the--cancellation,--suspension--or
17 revocation-or-such-certificate-or-license-in-the-state-or-territory
18 in-which-the-same-was-issued-and-that-no-prosecution-was-then-or-at
19 the-time-of-application-pending-against-the-applicant-in-any--state
20 or-federal-court-for-any-offense-under-the-laws-of-Texas-which-is-a
21 felony.]

22 SECTION 3.05. Section 9(c), Chapter 366, Acts of the 61st
23 Legislature, Regular Session, 1969 (Article 4566-1.09, Vernon's
24 Texas Civil Statutes), is amended to read as follows:

25 (c) A temporary training permit shall authorize the holder
26 thereof, to fit and dispense hearing aids under the direct and
27 full-time supervision of the license holder who completed the

1 affidavit required by Subsection (b) of this section or that
2 person's successor as supervisor for a period of one year or until
3 the holder thereof shall have successfully passed the examination
4 required for a license under this Act, whichever occurs first.

5 SECTION 3.06. Section 10, Chapter 366, Acts of the 61st
6 Legislature, Regular Session, 1969 (Article 4566-1.10, Vernon's
7 Texas Civil Statutes), is amended to read as follows:

8 Sec. 10. GROUNDS FOR DISCIPLINARY ACTIONS. (a) The Board
9 shall revoke or suspend a permit or license, place on probation a
10 person whose permit or license has been suspended, or reprimand a
11 permittee or licensee for a violation of this Act or a rule of the
12 Board including any of the following violations:

13 (1) The temporary trainee or licensee is guilty of any
14 fraud, deceit or misrepresentation in the fitting and dispensing of
15 hearing aids or in his seeking of a license under this Act.

16 (2) The temporary trainee or licensee is convicted of
17 a felony or a misdemeanor which involves moral turpitude.

18 (3) The temporary trainee or licensee is unable to fit
19 and dispense hearing aids with reasonable skill and safety to
20 customers by reason of incompetence, age, illness, drunkenness,
21 excessive use of drugs, narcotics, chemicals, or any other type of
22 material or as a result of any condition causing the temporary
23 trainee or licensee to become mentally or physically incapable as
24 determined by a court of competent jurisdiction.

25 (4) The temporary trainee or licensee has violated any
26 of the provisions of this Act or Board rules.

27 (5) The licensee has knowingly, directly or indirectly

1 employed, hired, procured, or induced a person not licensed to fit
2 and dispense hearing aids in this state, to so fit and dispense
3 hearing aids.

4 (6) The licensee aids or abets any person not duly
5 licensed under this Act in the fitting or dispensing of hearing
6 aids.

7 (7) The licensee lends, leases, rents, or in any other
8 manner places his license at the disposal or in the service of any
9 person not licensed to fit and dispense hearing aids in this state.

10 (8) The licensee knowingly used or caused or promoted
11 the use of any advertising matter, promotional literature,
12 guarantees, warranty, disseminated or published with misleading,
13 deceiving or false information. It is the intention of the
14 Legislature that the provisions of this subdivision be interpreted
15 insofar as possible to coincide with the orders and rules of the
16 Federal Trade Commission on such subjects.

17 (9) The licensee represented that the service or
18 advice of a person licensed to practice medicine by the Texas State
19 Board of Medical Examiners is used or made available in the
20 selection, fitting, adjustment, maintenance, or repair of a hearing
21 aid when such representation was not true.

22 (10) The licensee used the term "doctor," "clinic" or
23 any like words, abbreviations or symbols in the conduct of his
24 business which would tend to connote that the licensee was a
25 physician or surgeon.

26 (11) The licensee obtained or attempted to obtain
27 information concerning the business of another licensee under this

1 Act by bribery, or attempting to bribe an employee or agent of such
2 other licensee or by the impersonation of one in authority.

3 (12) The licensee directly or indirectly gave, or
4 offered to give or permitted or caused to be given money or
5 anything of value to any person who advises others in a
6 professional capacity as an inducement to influence such person to
7 influence those persons such person advises in a professional
8 capacity to purchase or contract to purchase products sold or
9 offered for sale by licensee or to refrain from purchasing or
10 contracting to purchase products sold or offered for sale by any
11 other licensee under this Act.

12 (13) The licensee falsely represented to a purchaser
13 that a hearing aid was "custom-made," "made to order,"
14 "prescription-made" or any other representations that such hearing
15 aid was specially fabricated for the purchaser.

16 (14) The licensee refused to accept responsibility for
17 the acts of a temporary training permittee in a licensee's employ
18 and under licensee's supervision.

19 (15) The licensee with fraudulent intent, engaged in
20 the fitting and dispensing of hearing aids under a false name or
21 alias.

22 (b) If a license suspension is probated, the Board may
23 require the license holder to:

24 (1) report regularly to the Board on matters that are
25 the basis of the probation;

26 (2) limit practice to the areas prescribed by the
27 Board; or

1 (3) continue or review continuing professional
2 education until the license holder attains a degree of skill
3 satisfactory to the Board in those areas that are the basis of the
4 probation.

5 (c) The schedule of sanctions adopted by the Board by rule
6 shall be used by the State Office of Administrative Hearings for
7 any sanction imposed as the result of a hearing conducted by that
8 office.

9 SECTION 3.07. Section 11, Chapter 366, Acts of the 61st
10 Legislature, Regular Session, 1969 (Article 4566-1.11, Vernon's
11 Texas Civil Statutes), is amended to read as follows:

12 Sec. 11. DISCIPLINARY ACTIONS. (a) If the Board proposes
13 to refuse a person's application for examination, to suspend or
14 revoke a person's license, or to probate or reprimand a person, the
15 person is entitled to a hearing before the State Office of
16 Administrative Hearings [Board].

17 (b) [~~The--proceedings--are--governed--by--the-Administrative~~
18 ~~Procedure-and-Texas-Register-Act,--as--amended--(Article--6252-13a,~~
19 ~~Vernon's-Texas-Civil-Statutes).~~

20 [~~(c)~~] Proceedings shall be commenced by filing charges with
21 the Board in writing and under oath. The charges may be made by
22 any person or persons.

23 [~~(d)--The--president--of--the--Board--shall--fix--a--time--and--place~~
24 ~~for--a--hearing--and--shall--cause--a--copy--of--the--charges,--together--with~~
25 ~~a--notice--of--the--time--and--place--fixed--for--the--hearing--to--be--served~~
26 ~~upon--the--applicant--or--licensee--against--whom--charges--have--been--filed~~
27 ~~at--least--30--days--prior--thereto.--Service--of--such--charges--and--notice~~

1 of-hearing-thereon-may-be-given-by-certified-mail-to-the-last-known
2 address-of-such-licensee-or-applicant.

3 [~~(e)~~--At-the-hearing, such-applicant-or-licensee--shall--have
4 the--right--to--appear--either--personally-or-by-counsel-or-both-to
5 produce-witnesses, and-to-have-subpoenas-issued-by--the--Board--and
6 cross-examine-opposing-or-adverse-witnesses.

7 [~~(f)~~--The--Board--shall--not--be--bound--by--strict--rules-of
8 procedure-or-by--the--laws--of--evidence--in--the--conduct--of--its
9 proceedings--but-the-determination-shall-be-founded-upon-sufficient
10 legal-evidence-to-sustain-it.

11 [~~(g)~~--The--Board--shall--determine--the--charges--upon--their
12 merits.]

13 (c) The Board shall enter an order in the permanent records
14 of the Board setting forth the findings of fact and law of the
15 State Office of Administrative Hearings [Board] and its action
16 thereon. A copy of such order of the State Office of
17 Administrative Hearings [Board] shall be mailed to such applicant
18 or licensee to his last known address by certified mail.

19 (d) [~~(h)~~] Any person whose license to fit and dispense
20 hearing aids has been refused or has been cancelled, revoked or
21 suspended by the Board, may, within 20 days after making and
22 entering of an [~~such~~] order by the State Office of Administrative
23 Hearings, take an appeal to any district court of Travis County or
24 any district court of the county of his residence.

25 (e) [~~(i)~~] Appeal from the judgment of such district court
26 will lie as other civil cases.

27 (f) [~~(j)~~] Upon application, the Board may reissue a license

1 to fit and dispense hearing aids to a person whose license has been
2 cancelled or revoked but such application shall not be made prior
3 to the expiration of a period of six months after the order of
4 cancellation or revocation has become final, and such application
5 shall be made in such manner and form as the Board may require.

6 (g) The Board may require that a license holder who violates
7 a provision of this Act participate in continuing education
8 programs. The Board shall specify the continuing education
9 programs that may be attended and the number of hours that must be
10 completed by an individual license holder to fulfill the
11 requirements of this subsection.

12 SECTION 3.08. Section 12, Chapter 366, Acts of the 61st
13 Legislature, Regular Session, 1969 (Article 4566-1.12, Vernon's
14 Texas Civil Statutes), is amended to read as follows:

15 Sec. 12. FEES AND EXPENSES. (a) The Board shall establish
16 reasonable and necessary fees so that the fees, in the aggregate,
17 produce sufficient revenue to cover the cost of administering this
18 Act. The Board may not set a fee for an amount less than the
19 amount of that fee on September 1, 1993. [~~for--the--administration~~
20 of--this--Act--in--amounts--not--to--exceed:

21	[1--Temporary-Training-Permit	\$--40
22	[2--Examination-Fee	125
23	[3--License-Fee	75
24	[4--License-Renewal-Fee	220
25	[5--Duplicate-Document-fee	10]

26 (b) Every person passing the examination and meeting the
27 requirements of the Board shall be notified that he is eligible for

1 such license upon payment of the fee [herein--provided]. Such
2 notice shall be by certified mail at the address given on his
3 examination papers. The fee for issuance of such license must be
4 paid by the applicant within 90 days after having been notified.
5 Failure to pay such fee within such time shall constitute a waiver
6 of the right to such person to obtain his license.

7 [(c) --The--Secretary-Treasurer--of--the--Board--shall,--on--or
8 before--the--10th--day--of--each--month,--remit--to--the--State--Treasurer--all
9 of--the--fees--collected--by--the--Board--during--the--preceding--month--for
10 deposit--in--the--General--Revenue--Fund--

11 [(d) --Each--member--of--the--Board--is--entitled--to--a--per--diem--as
12 set--by--legislative--appropriation--for--each--day--that--the--member
13 engages--in--the--business--of--the--Board,--A--member--may--not--receive--any
14 compensation--for--travel--expenses,--including--expenses--for--meals--and
15 lodging,--other--than--transportation--expenses,--A--member--is--entitled
16 to--compensation--for--transportation--expenses--as--prescribed--by--the
17 General--Appropriations--Act,--The--travel--expenses--allowance--for
18 members--of--the--Board--and--its--employees--shall--be--provided--in--the
19 General--Appropriations--Act,--The--executive--director--of--the--Board
20 shall--be--allowed--his--actual--expenses--incurred--while--traveling--on
21 official--business--for--the--Board--

22 [(e) --The--number--of--days--for--which--compensation--may--be--paid
23 to--members--of--the--Board--shall--not--exceed--two--days--in--any--calendar
24 month--except--in--those--months--in--which--examinations--are--held,--but
25 compensations--may--never--be--allowed--to--exceed--six--days--in--those
26 months--in--which--examinations--are--held--

27 [(f) --The--Board--may--authorize--all--necessary--disbursements--to

1 carry--out--the--provisions--of--this-Act,--including-payment-of-the
2 premium--on--the--bond--of--the---Secretary-Treasurer,---stationery
3 expenses,--purchase--and--maintain-or-rent-equipment-and-facilities
4 necessary--to--carry--out--the--examinations--of--applications--for
5 license,--pay-for-printing-of-all--licenses,--rent--and--furnish--an
6 office-to-maintain-the-permanent-records-of-the-Board.

7 [~~(g)~~--Funds--for--the--administration--of--this--Act-shall-be
8 provided-by-the-General-Appropriations-Act-from-the-General-Revenue
9 Fund.--The-financial-transactions-of-the-Board-are-subject-to-audit
10 by-the-state-auditor-in-accordance--with--Chapter--321,--Government
11 Code.]

12 SECTION 3.09. Section 12B, Chapter 366, Acts of the 61st
13 Legislature, Regular Session, 1969 (Article 4566-1.12B, Vernon's
14 Texas Civil Statutes), is amended by amending Subsection (d) and by
15 adding Subsections (e)-(f) to read as follows:

16 (d) The Board shall keep an information file about each
17 complaint filed with the Board [~~relating--to--a--licensee~~]. The
18 Board's information file shall be kept current and contain a record
19 for each complaint of:

20 (1) all persons contacted in relation to the
21 complaint;

22 (2) a summary of findings made at each step of the
23 complaint process;

24 (3) an explanation of the legal basis and reason for a
25 complaint that is dismissed; and

26 (4) other relevant information.

27 If a written complaint is filed with the Board that the Board has

1 authority to resolve [~~relating-to-a-licensee~~], the Board, at least
2 as frequently as quarterly and until final disposition of the
3 complaint, shall notify the parties to the complaint of the status
4 of the complaint unless the notice would jeopardize an undercover
5 investigation.

6 (e) The Board by rule shall adopt a form to standardize
7 information concerning complaints made to the Board. The Board by
8 rule shall prescribe information to be provided to a person when
9 the person files a complaint with the Board.

10 (f) The Board shall provide reasonable assistance to a
11 person who wishes to file a complaint with the Board.

12 SECTION 3.10. Chapter 366, Acts of the 61st Legislature,
13 Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas
14 Civil Statutes), is amended by adding Sections 12C and 12D to read
15 as follows:

16 Sec. 12C. COMPLAINT INVESTIGATION AND DISPOSITION. (a) The
17 Board shall adopt rules concerning the investigation of a complaint
18 filed with the Board. The rules adopted under this subsection
19 shall:

20 (1) distinguish between categories of complaints;

21 (2) ensure that complaints are not dismissed without
22 appropriate consideration;

23 (3) require that the Board be advised of a complaint
24 that is dismissed and that a letter be sent to the person who filed
25 the complaint explaining the action taken on the dismissed
26 complaint;

27 (4) ensure that the person who filed the complaint has

1 an opportunity to explain the allegations made in the complaint;
2 and

3 (5) prescribe guidelines concerning the categories of
4 complaints that require the use of a private investigator and the
5 procedures for the Board to obtain the services of a private
6 investigator.

7 (b) The Board shall dispose of all complaints in a timely
8 manner. The Board shall establish a timeline for conducting each
9 phase of a complaint that is under the control of the Board not
10 later than the 30th day after the date the complaint is received by
11 the Board. The timeline shall be kept in the information file for
12 the complaint and all parties shall be notified of the projected
13 time requirements for pursuing the complaint. A change in the
14 timeline must be noted in the complaint information file and all
15 parties to the complaint must be notified not later than the
16 seventh day after the date the change is made.

17 (c) The director of the Board shall notify the Board of a
18 complaint that extends beyond the time prescribed by the Board for
19 resolving the complaint so that the Board may take necessary action
20 on the complaint.

21 Sec. 12D. INFORMAL PROCEEDINGS. (a) The Board by rule
22 shall adopt procedures governing:

23 (1) informal disposition of a contested case under
24 Section 13(e), Administrative Procedure and Texas Register Act
25 (Article 6252-13a, Vernon's Texas Civil Statutes), and its
26 subsequent amendments; and

27 (2) informal proceedings held in compliance with

1 Section 18(c), Administrative Procedure and Texas Register Act
2 (Article 6252-13a, Vernon's Texas Civil Statutes), and its
3 subsequent amendments.

4 (b) Rules adopted under this section must provide the
5 complainant and the licensee an opportunity to be heard and must
6 require the presence of a representative of the office of the
7 attorney general to advise the Board or Board's employees.

8 SECTION 3.11. Chapter 366, Acts of the 61st Legislature,
9 Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas
10 Civil Statutes), is amended by adding Section 12E to read as
11 follows:

12 Sec. 12E. MONITORING OF LICENSE HOLDER. The Board by rule
13 shall develop a system for monitoring license holders' compliance
14 with the requirements of this Act. Rules adopted under this
15 section shall include procedures for monitoring a license holder
16 who is ordered by the Board to perform certain acts to ascertain
17 that the license holder performs the required acts and to identify
18 and monitor license holders who represent a risk to the public.

19 SECTION 3.12. Section 13, Chapter 366, Acts of the 61st
20 Legislature, Regular Session, 1969 (Article 4566-1.13, Vernon's
21 Texas Civil Statutes), is amended to read as follows:

22 Sec. 13. RENEWAL OF LICENSE. (a) The Board by rule may
23 adopt a system under which licenses expire on various dates during
24 the year. For the year in which the license expiration date is
25 changed, license fees payable on September 1 shall be prorated on a
26 monthly basis so that each licensee shall pay only that portion of
27 the license fee that is allocable to the number of months during

1 which the license is valid. On renewal of the license on the new
2 expiration date, the total license renewal fee is payable [Each
3 ~~license-to-fit-and-dispense-hearing-aids-shall-be--issued--for--the~~
4 ~~term-of-one-year-and-shall,--unless-suspended-or-revoked,--be-renewed~~
5 ~~annually-on-September-1-on-payment-of-the-renewal-fee~~].

6 (b) A person may renew an [his] unexpired license by paying
7 to the Board before the expiration date of the license the required
8 renewal fee.

9 (c) If a person's license has been expired for [not--more
10 than] 90 days or less, the person may renew the license by paying
11 to the Board the required renewal fee and a fee that is one-half of
12 the examination fee for the license.

13 (d) If a person's license has been expired for more than 90
14 days but less than one year [two-years], the person may renew the
15 license by paying to the Board all unpaid renewal fees and a fee
16 that is equal to the examination fee for the license.

17 (e) If a person's license has been expired for one year [two
18 years] or more, the person may not renew the license. The person
19 may obtain a new license by submitting to reexamination and
20 complying with the requirements and procedures for obtaining an
21 original license. However, the Board may renew without examination
22 an expired license of a person who was licensed in this state,
23 moved to another state, and is currently licensed and has been in
24 practice in the other state for the two years preceding
25 application. The person must pay to the Board a fee that is equal
26 to the examination fee for the license.

27 (f) At least 30 days before the expiration of a person's

1 license, the Board shall send written notice of the impending
2 license expiration to the person at the licensee's last known
3 address according to the records of the Board.

4 (g) Before a license can be renewed, the Board shall require
5 certification that all testing equipment, both portable and
6 stationary, used by the licensee has been calibrated within one
7 year prior to the renewal date.

8 (h) ~~[(g)]~~ Before a license can be renewed, a licensee must
9 demonstrate compliance with the requirements of continuing
10 education established by the Board under Subsection (e) ~~[(f)]~~ of
11 Section 4 of this Act.

12 ~~[On-written-request, the Board shall provide an alternative~~
13 ~~mechanism for meeting the continuing education requirement through~~
14 ~~examination.]~~

15 ~~[The Board may waive compliance with the continuing education~~
16 ~~requirement for license renewal in an individual case upon evidence~~
17 ~~of hardship or inability to meet the requirement. The waiver may~~
18 ~~be granted after review by the Board on an annual basis.]~~

19 (i) ~~[(h)]~~ Fitting and dispensing hearing aids without an
20 annual renewal certificate for the current year as provided herein
21 shall have the same force and effect and be subject to the same
22 penalties as fitting and dispensing hearing aids without a license.

23 (j) ~~[(i)]~~ The Board shall issue a duplicate license to any
24 licensee whose license has been lost or destroyed and the Board
25 shall have the authority to prescribe the procedure and
26 requirements for the issuance of the duplicate license.

27 SECTION 3.13. Chapter 366, Acts of the 61st Legislature,

1 Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas
2 Civil Statutes), is amended by adding Section 13B to read as
3 follows:

4 Sec. 13B. INACTIVE STATUS. The Board by rule may provide
5 for a person who holds a license under this Act to be placed on
6 inactive status. Rules adopted under this section shall include a
7 time limit for a license holder to remain on inactive status.

8 SECTION 3.14. Section 15(a), Chapter 366, Acts of the 61st
9 Legislature, Regular Session, 1969 (Article 4566-1.15, Vernon's
10 Texas Civil Statutes), is amended to read as follows:

11 (a) It is unlawful for any person to:

12 (1) buy, sell, or fraudulently obtain a license to fit
13 and dispense hearing aids or aid or abet therein;

14 (2) alter a license to fit and dispense hearing aids
15 with the intent to defraud;

16 (3) willfully make a false statement in an application
17 to the [Texas] Board [~~of-Examiners-of--Fitters--and--Dispensers--of~~
18 ~~Hearing-Aids~~] for a license, a temporary training permit or for the
19 renewal of a license;

20 (4) falsely impersonate any person duly licensed as a
21 fitter and dispenser of hearing aids under the provisions of this
22 Act;

23 (5) offer or hold himself out as authorized to fit and
24 dispense hearing aids, or use in connection with his name any
25 designation tending to imply that he is authorized to engage in the
26 fitting and dispensing of hearing aids, if not so licensed under
27 the provisions of this Act;

1 (6) engage in the fitting and dispensing of hearing
2 aids during the time his license shall be cancelled, suspended or
3 revoked; or

4 (7) dispense or fit a hearing aid on any individual
5 who has ordered such hearing aid or device by mail unless the
6 person dispensing and fitting such hearing aid or device is
7 licensed under this Act.

8 ARTICLE 4. TRANSITION; REPEALER; EFFECTIVE DATE; EMERGENCY

9 SECTION 4.01. (a) As soon as possible after the effective
10 date of this Act, the governor shall appoint the initial members of
11 the Board of Examiners for Speech and Hearing Professionals in
12 accordance with Article 4566a, Revised Statutes, as added by this
13 Act. In making the initial appointments, the governor shall
14 designate members to serve terms as follows:

15 (1) one member licensed as a hearing aid fitter and
16 dispenser, one member licensed as an audiologist, and one public
17 member serve for terms expiring February 1, 1995;

18 (2) one member licensed as a hearing aid fitter and
19 dispenser, one member licensed as an audiologist, and one member
20 licensed as a speech-language pathologist serve for terms expiring
21 February 1, 1997; and

22 (3) one member licensed as a speech-language
23 pathologist and two public members serve for terms expiring
24 February 1, 1999.

25 (b) The Board of Examiners for Speech and Hearing
26 Professionals may not take any action and is not created until the
27 day after the date that the last appointee to the initial board

1 takes office. On the date of its creation, the board assumes its
2 functions and:

3 (1) the State Committee of Examiners for
4 Speech-Language Pathology and Audiology and the Texas Board of
5 Examiners in the Fitting and Dispensing of Hearing Aids are
6 abolished;

7 (2) the obligations, rights, contracts, records and
8 other property, and personnel of, and unspent money appropriated to
9 or for, the abolished committee and board are transferred to the
10 Board of Examiners for Speech and Hearing Professionals;

11 (3) the rules of the abolished committee and board are
12 continued in effect as rules of the Board of Examiners for Speech
13 and Hearing Professionals until superseded by rule of the new
14 board;

15 (4) the licenses in effect that were issued by the
16 abolished committee or board are continued in effect as licenses of
17 the Board of Examiners for Speech and Hearing Professionals;

18 (5) a complaint or investigation pending before the
19 abolished committee or board is transferred without change in
20 status to the Board of Examiners for Speech and Hearing
21 Professionals;

22 (6) a contested case pending before the abolished
23 committee or board is transferred to the State Office of
24 Administrative Hearings and actions taken in the proceeding are
25 treated as if taken by the State Office of Administrative Hearings;
26 and

27 (7) any reference in a law to the abolished committee

1 or board means the Board of Examiners for Speech and Hearing
2 Professionals.

3 (c) Regardless of the changes in law made by this Act, until
4 the date that the State Committee of Examiners for Speech-Language
5 Pathology and Audiology and the Texas Board of Examiners in the
6 Fitting and Dispensing of Hearing Aids are abolished as provided by
7 this section, the committee and board continue in existence and
8 shall administer their functions under the law that governed the
9 committee or board before the effective date of this Act, and the
10 prior law is continued in effect for that purpose.

11 (d) The Board of Examiners for Speech and Hearing
12 Professionals shall adopt rules under this Act not later than
13 December 1, 1993.

14 SECTION 4.02. The following laws are repealed:

15 (1) Sections 3, 4, 6, 7, and 22, Chapter 381, Acts of
16 the 68th Legislature, Regular Session, 1983 (Article 4512j,
17 Vernon's Texas Civil Statutes); and

18 (2) Sections 2, 3, 4A, and 13A, Chapter 366, Acts of
19 the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et
20 seq., Vernon's Texas Civil Statutes).

21 SECTION 4.03. This Act takes effect September 1, 1993.

22 SECTION 4.04. The importance of this legislation and the
23 crowded condition of the calendars in both houses create an
24 emergency and an imperative public necessity that the
25 constitutional rule requiring bills to be read on three several
26 days in each house be suspended, and this rule is hereby suspended.

LEGISLATIVE BUDGET BOARD

Austin, Texas

**FISCAL NOTE
73rd Regular Session**

April 4, 1993

TO: Honorable Judith Zaffirini, Chair
Committee on Health and Human Services
Senate Chamber
Austin, Texas

IN RE: Senate Bill No. 1079
By: Harris, Ike

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 1079 (relating to the regulation of the fitting and dispensing of hearing aids and speech-language pathology and audiology and to the creation of a new state board to replace the State Committee of Examiners for Speech Pathology and Audiology and the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would abolish the State Committee of Examiners for Speech-Language Pathology and Audiology and the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids and merge them to create the Board of Examiners for Speech and Hearing Professionals. The nine-member board appointed by the Governor would be comprised of two hearing aid fitters and dispensers, two audiologists, two speech-language pathologists and three public members. The bill would also standardize the complaint and investigation process; create a procedure to license out-of-state practitioners; and require that all written examinations be validated. The bill would continue the Board of Speech and Hearing Professionals until September 1, 2005.

Fiscal implications of the bill are calculated from the State Committee of Examiners for Speech-Language Pathology and Audiology (funded through the Department of Health) and the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids (FY94 = \$71,765; FY95 = \$70,316) in the General Appropriation Bill, as introduced which provides funding for 6 employees. The bill would require the board to issue separate licenses for the three types of professionals and appropriations would be financed from the General Revenue Fund and the Speech-Language Pathology and Audiology Account No. 515 in General Revenue Fund. The bill requires the board to establish fees that will produce sufficient revenue to cover the costs of administering the Act. No change in the number of employees is anticipated.

The bill contains one provision that could result in a loss of revenue associated with its implementation but the amount cannot be estimated. The provision requires that temporary permittees training to become hearing aid fitters and dispensers be supervised by licensee-sponsors. This provision could reduce the number of temporary permittees and the amount of fee revenue generated because the provision requires direct supervision and would reduce the number of temporary permittees that could be supervised by a licensee-sponsor. However, the exact revenue loss cannot be estimated because the reduction in the number of temporary permittees cannot be estimated.

The bill contains two provisions whose costs and associated revenue gain could not be estimated. The first provision requires the board to establish temporary licenses and inactive status for licenses. The second provision authorizes the board to establish a procedure for licensing out-of-state practitioners seeking licensure in Texas.

RECEIVED
APR 5 1993

Senate Committee on Health and Human Services

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Fiscal Year	Probable Gain to the General Revenue Fund 001 from Fee Revenue	Probable Gain to the Speech-Language Pathology and Audiology Account No. 515 in General Revenue Fund 001 from Fee Revenue	Probable Cost Out of the General Revenue Fund	Probable Cost Out of the Speech-Language Pathology and Audiology Account No. 515 in General Revenue Fund 001
1994	\$43,069	\$36,520	\$43,069	\$36,520
1995	4,829	9,760	4,829	9,760
1996	7,329	9,760	7,329	9,760
1997	4,829	9,760	4,829	9,760
1998	7,329	9,760	7,329	9,760

The table reflects the probable cost increases to the new board's budget of approximately \$79,589 the first year and \$14,489 and \$17,089 alternating subsequent years due to hearing aid fitter and dispenser examinations validation. Increases in the FY94 are based on one-time costs of \$65,000 including moving expenses (\$36,000), computer expenses (\$4,000) and initial validation of examinations (\$25,000).

The total budget for the Board of Examiners for Speech and Hearing Professionals is projected to be \$301,604 for FY94 and \$261,604 for FY95.

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No fiscal implication to units of local government is anticipated.

Source: Texas Department of Health, Board of Examiners in the Fitting and Dispensing of Hearing Aids, Sunset Advisory Commission, Health and Human Services Commission;
LBB Staff: JO, JWH, EC, TLH, JOL

S.B. No.

1079

By

Harris of Dallas

A BILL TO BE ENTITLED

AN ACT: relating to the regulation of the fitting and dispensing of hearing aids and speech-language pathology and audiology and to the creation of a new state board to replace the State Committee of Examiners for Speech Pathology and Audiology and the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids.

HEALTH & HUMAN SERVICES

3-12-93

MAR 15 1993

Filed with the Secretary of the Senate

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by:

{ unanimous consent

_____ yeas, _____ nays

Read second time, _____, and ordered engrossed by:

{ unanimous consent
a viva voce vote

_____ yeas, _____ nays

Caption ordered amended to conform to the body of the bill.

Senate and Constitutional 3 Day Rule suspended by a vote of _____ yeas, _____ nays.

Read third time, _____, and passed by:

{ A viva voce vote

_____ yeas, _____ nays

SECRETARY OF THE SENATE

OTHER ACTION:

Engrossed

Sent to House

Engrossing Clerk _____

Received from the Senate

Read first time and referred to Committee on _____

Reported favorably amended, sent to Printer at _____

Printed and Distributed _____

Sent to Committee on Calendars _____

Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of _____ yeas, _____ nays _____ present not voting.

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays _____ present not voting.

Read third time (amended): finally passed (failed) by a (Non-Record Vote) Record Vote of _____ yeas, _____ nays _____ present not voting.

Caption ordered amended to conform to body of bill.

Returned to Senate.

CHIEF CLERK OF THE HOUSE

Returned from House without amendment.

Returned from House with _____ amendments.

Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman; _____, _____, _____, _____

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by: _____

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays

SHH

BILL ANALYSIS

Senate Research Center

S.B. 1079
By: Harris, O.H.
Health and Human Services
4-28-93
As Filed

BACKGROUND

The State Committee of Examiners for Speech Pathology and Audiology was created in 1983 and has the responsibility and authority to examine, license, and regulate the practice of speech-language pathology and audiology in the state. The board's enabling act is a practice act in that it regulates the practice of speech-language pathology and audiology and prohibits unlicensed individuals from engaging in the practice of these professions. To fulfil its responsibilities, the committee proposes rules regarding the practice of speech-language pathology and audiology. The Board of Health makes final decisions on all new rules or changes. The committee is also responsible for determining the qualifications of applicants, administering a national examination, issuing initial and renewal licenses, investigating complaints against licensees, and taking disciplinary action to enforce its enabling act. The committee is composed of three speech-language pathologists, three audiologists, two members who represent the general public and one medical doctor. The committee prescribes and maintains standards for approximately 4,230 speech-language pathologists, 200 associates in speech-language pathology, 590 audiologists, and 7 associates in audiology. The committee's FY 1992 expenditures totalled \$145,546 and its FY 1993 budget is \$139,156. The committee is funded from fee revenues deposited in Speech-Language Pathology and Audiology Fund No. 515 in the state treasury. The committee had four FTE employees in FY 1992.

The Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids was created in 1907 and has the responsibility and authority to examine, license, and regulate the practice of fitting and dispensing hearing aids in the state. The board's enabling act is a practice act in that it regulates the practice of fitting and dispensing hearing aids and prohibits unlicensed individuals from engaging in the practice of fitting and dispensing hearing aids. To fulfil its responsibilities, the board adopts rules regarding the practice of fitting and dispensing hearing aids, determines the qualifications of applicants, administers a state examination, issues initial and renewal licenses, investigates complaints against licensees, and takes disciplinary action to enforce its enabling act. The board is composed of five hearing aid fitters and dispensers, one audiologist, two members who represent the general public and one medical doctor. The board prescribes and maintains standards for approximately 990 fitters and dispensers and 190 temporary trainees. The board's FY 1992 expenditures totalled \$66,737 and its FY 1993 budget is \$69,486. The board is funded from fee revenues deposited in the state treasury. The board had two FTE employees in FY 1992.

PURPOSE

As proposed, S.B. 1079 creates the Board of Examiners for Speech and Hearing Professionals to replace the State Committee of Examiners for Speech Pathology and Audiology and the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is granted to the Board of Examiners for Speech and Hearing Professionals under SECTION 1.01 (Secs. 10 and 17, Article 4566a, V.T.C.S.), SECTIONS 2.04, 2.05, 2.10, 2.11, 2.12, 2.13, 2.14, and 2.19 (Secs. 10, 11, 14(d), 14A, 15, 16, 17(f), 24, and 25, Article 4512j, V.T.C.S.), SECTIONS 3.01, 3.06, 3.09, 3.10, 3.11, 3.12, and 3.13 (Secs. 4(e), 10(c), 12B(e), 12C(a), 12D(b), 12E, 13, and 13B, Article 4566-1.01 et seq., V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. BOARD OF EXAMINERS FOR SPEECH AND HEARING PROFESSIONALS

SECTION 1.01. Amends Title 71, V.T.C.S., by adding Article 4566a, as follows:

Art. 4566a. BOARD OF EXAMINERS FOR SPEECH AND HEARING PROFESSIONALS

Sec. 1. BOARD OF EXAMINERS FOR SPEECH AND HEARING PROFESSIONALS.

(a) Sets forth the membership of the Board of Examiners for Speech and Hearing Professionals (board).

(b) Provides that members of the board are appointed by the governor with the advice and consent of the senate.

(c) Requires appointments to the board to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Sec. 2. OFFICERS; MEETINGS; COMPENSATION. (a) Requires the board to annually select a presiding officer, assistant presiding officer, and secretary-treasurer.

(b) Requires the board to hold at least two regular meetings each year at which time an examination for a license under a law administered by the board shall be offered. Authorizes additional meetings to be held on the call of the presiding officer or at the written request of three members of the board.

(c) Provides that a member is entitled to a per diem and transportation expenses as provided by the General Appropriations Act.

Sec. 3. TERMS. (a) Provides that members of the board are appointed for staggered six-year terms with three members' terms expiring on February 1 of each odd-numbered year.

(b) Requires a member appointed to fill a vacancy to hold office for the remainder of that term.

Sec. 4. Provides that a person is not eligible for appointment as a public member of the board if the person or the person's spouse meets certain conditions.

Sec. 5. CONFLICT OF INTEREST RESTRICTIONS. (a) Prohibits an officer, employee, or paid consultant of a Texas trade association in the field of health care from being a member or employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(b) Applies the prohibition in Subsection (a) to that person's spouse.

(c) Defines a Texas trade association.

Sec. 6. EFFECT OF LOBBYING ACTIVITY. Prohibits a person from serving as a member of the board or from acting as general counsel to the board if the person is required to register as a lobbyist under Chapter 35, Government Code.

Sec. 7. GROUNDS FOR REMOVAL FROM BOARD. (a) Sets forth the grounds for removal from board.

(b) Provides that the validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) Requires the director to notify the presiding officer of the board of the existence of a potential ground for removal upon becoming aware such ground exists. Requires the presiding officer to then notify the governor of the potential ground for removal.

Sec. 8. STAFF. (a) Requires the board to employ a director and administrative and clerical employees as necessary to carry out the board's functions.

(b) Requires the board to develop and implement policies that clearly define the respective responsibilities and the staff of the board.

Sec. 9. REGULATORY STATUTES ADMINISTERED. Requires the board to administer and enforce the speech-language and pathology law, Article 4512j, V.T.C.S., and the law relating to the fitting and dispensing of hearing aids, Article 4566-1.01 et seq., V.T.C.S.

Sec. 10. SEPARATE LICENSES. (a) Requires the board to issue separate licenses for a hearing aid fitter and dispenser, an audiologist, and a speech-language pathologist.

(b) Authorizes the board to issue more than one type of license to a person under a law regulated by the board if the person is qualified to hold each of the licenses issued. Requires the board to adopt rules relating to the issuance of multiple licenses to a person under laws administered by the board.

Sec. 11. RULES. (a) Authorizes the board to only adopt rules proposed to the board by a rules subcommittee established under Section 12 of this article. Provides that this provision controls notwithstanding any conflicting provision of the speech-language and pathology law, Article 4512j, V.T.C.S., or the law relating to the dispensing of hearing aids, Article 4566-1.01 et seq., V.T.C.S.

(b) Requires the board to indicate to the subcommittee the reasons the board did not approve the rule and return the rule to the subcommittee for further development, if the board does not approve a rule proposed by a rules subcommittee.

Sec. 12. RULES SUBCOMMITTEES. (a) Sets forth the method for establishing three rules subcommittees.

(b) Prohibits a member of the board from serving on more than one rules subcommittee.

(c) Requires the presiding officer of the board to designate the public members of each rules subcommittee.

(d) Sets forth the powers and duties of a rules subcommittee.

Sec. 13. EXPENDITURES; AUDIT. (a) Authorizes the board to authorize all necessary disbursements to carry out certain laws from the funds appropriated to it.

(b) Provides that the financial transactions of the board are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Sec. 14. ANNUAL FINANCIAL REPORT. Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions.

Sec. 15. PERSONNEL POLICIES. (a) Requires the director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting.

(b) Requires the director or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based.

Sec. 16. **EQUAL EMPLOYMENT OPPORTUNITY POLICIES.** (a) Requires the director or the director's designee to prepare and maintain a written policy statement to assure the implementation of a program of equal employment opportunity. Requires the policy statement to include certain information.

(b) Requires a policy statement to cover an annual period, and to be reviewed by the Commission on Human Rights and filed with the governor's office.

(c) Requires the governor's office to deliver a biennial report either separately or as part of other reports to the legislature based on the information received under Subsection (b).

Sec. 17. **PUBLIC INTEREST INFORMATION.** (a) Requires the board to prepare and distribute information to the public concerning the board's functions and complaint procedures.

(b) Requires the board, by rule, to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. Sets forth methods for providing for that notification.

(c) Requires the board to list along with its regular telephone number a toll free number for complaint information, if a toll-free number is established under other state law.

Sec. 18. **PUBLIC PARTICIPATION IN BOARD HEARINGS.** Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction.

Sec. 19. **PROGRAM ACCESSIBILITY.** Requires the board to develop a plan that describes how a non-English speaking person can be provided reasonable access to the agency's programs. Requires the board to comply with federal and state law for program and facility accessibility.

Sec. 20. **TRAINING; STANDARDS OF CONDUCT INFORMATION.** (a) Requires each board member to comply with the member training requirements established by any other state agency that is given authority to establish requirements for the board.

(b) Requires the board to provide to its members and employees, information regarding their qualifications for office or employment and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 21. **OPEN MEETINGS AND ADMINISTRATIVE PROCEDURE.** Provides that the board is subject to certain laws regarding open meetings and administrative procedure.

Sec. 22. **SUNSET PROVISION.** Provides that the board, this article, the speech-language and pathology law, and the law relating to the fitting and dispensing of hearing aids are subject to Chapter 325, Government Code (Texas Sunset Act).

ARTICLE 2. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

SECTION 2.01. Amends Section 2, Article 4512j, V.T.C.S., as follows:

Sec. 2. Amends the definition of "board" to mean the Board of Examiners for Speech and Hearing Professionals. Deletes definitions of "committee" and "department." Redesignates existing subdivisions and makes a conforming change.

SECTION 2.02. Amends Section 5, Article 4512j, V.T.C.S., as follows:

Sec. 5. New title: **DUTIES AND POWERS OF THE BOARD.** (a) and (b) Delete

references to the State Committee of Examiners for Speech Pathology and Audiology (committee) and the Texas Department of Health (department).

(c) Requires the board to keep records and minutes necessary to the orderly administration of this Act. Deletes language authorizing hearings to be conducted.

(d)-(h). Make conforming changes. Deletes existing Subsections (g) and (h).

SECTION 2.03. Amends Section 9(b) and (1), Article 4512j, V.T.C.S., to make conforming changes.

SECTION 2.04. Amends Section 10, Article 4512j, V.T.C.S., as follows:

Sec. 10. New title: QUALIFICATION OF APPLICANTS FOR LICENSE; INTERN LICENSE. (a) Makes conforming changes.

(b) Authorizes an applicant who has completed the requirements for a master's degree required for a license under this Act but who has not had the degree officially conferred on the applicant to be licensed as an intern under this Act if the applicant meets all other requirements of Subsection (a). Authorizes the board, by rule, to prescribe the term by which an applicant may practice under an intern's license under this subsection.

SECTION 2.05. Amends Section 11, Article 4512j, V.T.C.S., to make conforming changes.

SECTION 2.06. Amends Section 12, Article 4512j, V.T.C.S., as follows:

Sec. 12. EXAMINATION. (a) Makes conforming changes.

(b) Authorizes the board, by rule, to establish procedures for the administration of the examination. Authorizes the board to examine by written or oral examination or by both. Requires the board to have the written portion of the examination, if any, validated by an independent testing professional. Makes a conforming change.

(c) and (d) Make conforming changes.

(e) Requires the board to furnish a person with an analysis of the person's performance on the examination, if requested in writing by a person who fails a licensing examination under this Act.

(f) Requires the board to notify each examinee of the results of the examination within 30 days after the examination is administered. Requires the board to notify examinees of the results of the examination within 14 days after the date on which the board receives the results from a testing service, if an examination is graded or reviewed by a testing service. Requires the board to notify an examinee of the reason for a delay if the examination results graded or reviewed by a testing service will be delayed longer than 90 days. Deletes language authorizing the committee to waive the examination for certain applicants.

SECTION 2.07. Amends the heading of Section 13, Article 4512j, V.T.C.S., to **PRIOR LICENSING UNDER SPECIAL CONDITIONS.**

SECTION 2.08. Amends Sections 13(a) and (b) Article 4512j, V.T.C.S., as follows:

(a) and (b) Delete references to "committee" and changes tense of sections to past tense.

SECTION 2.09. Amends Section 13, Article 4512j, V.T.C.S., by redesignating Section 13(c) and (d) as Sections 13A(a) and (e), as follows:

Sec. 13A. PROVISIONAL LICENSE; OTHER LICENSE WITHOUT EXAMINATION.

(a) Authorizes the board to grant a provisional license to applicants who meet certain conditions. Requires an applicant for a provisional license under this section to meet certain conditions.

(b) Authorizes an applicant for a provisional license to be excused from the requirement of Subsection (a)(3) if the board determines that compliance with that subsection constitutes a hardship to the applicant.

(c) Provides that a provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. Requires the board to issue a license under this Act to the holder of a provisional license under this section if certain conditions are met.

(d) Requires the board to complete the processing of a provisional license holder's application for a license within 180 days after the date the provisional license is issued.

(e) Makes a conforming change.

SECTION 2.10. Amends Sections 14(a), (c), and (d), Article 4512j, V.T.C.S., as follows:

(a) and (c) Make conforming changes.

(d) Authorizes the board, by rule, to adopt a system under which licenses expire on various dates during the year. Provides that for the year in which the license expiration date is changed, license fees payable on the original expiration date are required to be prorated on a monthly basis so that each licensee shall pay only the portion of the license fee that is allocable to the number of months during which the license is valid. Provides that on renewal of the license on the new expiration date, the total license renewal fee is payable. Deletes language of existing subsection.

SECTION 2.11. Amends Chapter 381, Article 4512j, V.T.C.S., by adding Section 14A, as follows:

Sec. 14A. TEMPORARY LICENSE; INACTIVE STATUS. (a) Authorizes the board, by rule, to provide for the issuance of a temporary license.

(b) Authorizes the board, by rule, to provide for a person who holds a license under this Act to be placed on inactive status. Requires rules adopted under this section to include a time limit for a license holder to remain on inactive status.

SECTION 2.12. Amends Section 15, Article 4512j, V.T.C.S., as follows:

Sec. 15. RENEWAL OF LICENSE. (a) Authorizes a person to renew an unexpired license by paying to the board before the expiration of the license the required renewal fee.

(b) Sets forth the method for renewing a license that has been expired for 90 days or less.

(c) Sets forth the method for renewing a license that has been expired longer than 90 days but less than one year. Deletes language of existing subsection.

(d) Provides that a person whose license has been expired for one year or longer may not renew the license. Sets forth the method required for such a person to obtain a new license.

(e) Requires the board to send notice of the impending expiration to the person at the licensee's last known address at least 30 days before the expiration of the license.

(f) Requires the board, by rule, to establish a minimum number of hours of continuing

education required to renew a license under this Act and to develop a process to evaluate and approve continuing education courses.

(g) Requires the board to identify the key factors for the competent performance by a license holder of the license holder's professional duties. Requires the board to adopt a procedure to assess a license holder's participation in continuing education programs. Deletes existing Subsection (c).

(h) Created from existing Subsection (d).

SECTION 2.13. Amends Section 16, Article 4512j, V.T.C.S., as follows:

Sec. 16. FEES. Requires the board, by rule, to establish reasonable and necessary fees so that the fees, in the aggregate produce sufficient revenue to cover the cost of administering this Act. Authorizes the fees set by the board to be adjusted so that the total fees collected are sufficient to meet the expenses of administering this Act. Deletes language regarding surplus funds. Prohibits the board from setting a fee for an amount less than the amount of that fee on September 1, 1993. Deletes language designating exact amounts of fees.

SECTION 2.14. Amends Section 17, Article 4512j, V.T.C.S., as follows:

Sec. 17. DENIAL, SUSPENSION, AND REVOCATION. (a)-(c) Make conforming change

(d) Authorizes the board to issue a written reprimand or require that a license holder participate in continuing education programs for violations of this Act. Authorizes the board to specify the continuing education programs that may be attended and the required number of hours to be attended.

(e) Authorizes the board to take certain actions if a license suspension is probated.

(f) Requires the schedule of sanctions adopted by the board, by rule, to be used by the State Office of Administrative Hearings for any sanction imposed as the result of a hearing conducted by that office.

SECTION 2.15. Amends Section 18(b), Article 4512j, V.T.C.S., to make conforming changes.

SECTION 2.16. Amends Section 19, Article 4512j, V.T.C.S., as follows:

Sec. 19. PROCEDURES FOR DENIAL, REVOCATION, OR SUSPENSION OF A LICENSE. (a) Provides that a person whose application for a license is denied is entitled to a hearing before the State Office of Administrative Hearings if such person submits a written request to the board.

(b) Makes a conforming change.

(c) Requires the board to enter an order in a permanent record setting forth the findings of fact and law and the action taken by the State Office of Administrative Hearings. Deletes existing Subsections (c) and (d).

(d)-(f) Created from existing Subsections (f)-(h). Make conforming changes.

SECTION 2.17. Amends Section 20, Article 4512j, V.T.C.S., as follows:

Sec. 20. DISPOSITION OF FUNDS RECEIVED. (a) Makes conforming changes.

(b) Requires all expenses for the administration of this Act to be paid from fees collected by the board under this Act. Makes a nonsubstantive change. Deletes existing Subsection (c).

SECTION 2.18. Amends Article 4512j, V.T.C.S., by adding Section 23, as follows:

Sec. 23. COMPLAINT PROCEDURE IN GENERAL. (a) Requires the board to keep an information file about each complaint filed with the board. Requires the information file to contain certain information.

(b) Requires the board to periodically provide written notice to all parties to a formal complaint of the status of the complaint.

(c) Requires the board, by rule, to adopt a form to standardize information concerning complaints made to the board. Requires the board, by rule, to prescribe information to be provided to a person when the person files a complaint with the board.

(d) Requires the board to provide reasonable assistance to a person who wishes to file a complaint with the board.

SECTION 2.19. Amends Article 4512j, V.T.C.S., by adding Sections 24 and 25, as follows:

Sec. 24. COMPLAINT INVESTIGATION AND DISPOSITION. (a) Requires the board to adopt rules concerning the investigation of a complaint filed with the board. Sets forth the requirements for rules adopted under this subsection.

(b) Requires the board to dispose of all complaints in a timely manner. Sets forth the methods and requirements of a schedule established for conducting each phase of a complaint.

(c) Requires the director of the board to notify the board of a complaint that extends beyond the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

Sec. 25. INFORMAL PROCEEDINGS. (a) Requires the board, by rule, to adopt certain procedures.

(b) Requires rules adopted under this section to provide the complainant and the licensee an opportunity to be heard and to require the presence of a representative of the office of the attorney general to advise the board or board's employees.

SECTION 2.20. Amends Article 4512j, V.T.C.S., by adding Section 25, as follows:

Sec. 25. MONITORING OF LICENSE HOLDER. Requires the board, by rule, to develop a system for monitoring license holders' compliance with the requirements of this Act. Requires rules adopted under this section to include procedures for monitoring a license holder who is ordered by the board to perform certain acts to ascertain that the license holder performs the required acts and to identify and monitor license holders who represent a risk to the public.

SECTION 2.21. Amends Article 4512j, V.T.C.S., by adding Section 26, as follows:

Sec. 26. COMPETITIVE BIDDING; ADVERTISING. (a) Prohibits the board from adopting rules restricting competitive bidding or advertising by a person regulated by the board except to prohibit false, misleading, or deceptive practices by the person.

(b) Prohibits the board from including certain restrictions in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board.

ARTICLE 3. FITTERS AND DISPENSERS OF HEARING AIDS

SECTION 3.01. Amends Section 1(a), Article 4566-1.01, V.T.C.S., to amend the definition of "board" to mean the Board of Examiners for Speech and Hearing Professionals.

SECTION 3.02. Amends Sections 4(b)-(i), Article 4566-1.04, as follows:

(b) and (c) Delete existing subsections. Redesignates existing subsections.

(e) Created from existing Subsection (i). Deletes language of existing Sections (g) and (h). Requires the board to adopt requirements for mandatory continuing education for licensees under this Act in subjects pertaining to the fitting and dispensing of hearing aids. Requires the board, by rule, to establish a minimum number of hours of continuing education required to renew a license. Authorizes the board to assess the continuing education needs of license holders and to require license holders to attend continuing education courses specified by the board. Requires the board, by rule, to develop a process to evaluate and approve continuing education courses.

(f) Requires the board to identify the key factors for the competent performance by a license holder of the license holder's professional duties. Requires the board to adopt a procedure to assess a license holder's participation and performance in continuing education programs.

SECTION 3.03. Amends Sections 6(a) and (c), Article 4566-1.06, V.T.C.S., as follows:

(a) Makes a conforming change.

(c) Requires the board to have the written portion of the examination validated by an independent testing professional.

SECTION 3.04. Amends Section 8, Article 4566-1.08, V.T.C.S., as follows:

Sec. 8. New title: PROVISIONAL LICENSES. (a) Requires the board to grant a provisional license to fit and dispense hearing aids, on application. Requires an applicant for a provisional license to meet certain conditions.

(b) Authorizes an applicant for a provisional license to be excused from the requirement of Subsection (a)(3), if the board determines that compliance with that subsection constitutes a hardship to the applicant.

(c) Provides that a provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. Requires the board to issue a license under this Act to the holder of a provisional license under this section if certain conditions are met.

(d) Requires the board to complete the processing of a provisional license holder's application for a license within 180 days after the provisional license is issued. Deletes language of existing Subsections (b) and (c).

SECTION 3.05. Amends Section 9(c), Article 4566-1.09, V.T.C.S., as follows:

(c) Requires a temporary training permit to authorize the holder to fit and dispense hearing aids under the direct and full-time supervision of the license holder who completed the affidavit required by Subsection (b) or that person's successor as supervisor for a period of one year or until the holder has successfully passed the examination required for a license under this Act, whichever occurs first.

SECTION 3.06. Amends Section 10, Article 4566-1.10, V.T.C.S., as follows:

Sec. 10. GROUNDS FOR DISCIPLINARY ACTIONS. (a) Requires the board to revoke or suspend a permit or license for a violation of this Act or a rule of the board including certain violations.

(b) Authorizes the board to require a license holder to take certain actions, if a license suspension is probated.

(c) Requires the schedule of sanctions adopted by the board, by rule, to be used by the State Office of Administrative Hearings for any sanction imposed as the result of a hearing conducted by that office.

SECTION 3.07. Amends Section 11, Article 4566-1.11, V.T.C.S., as follows:

Sec. 11. DISCIPLINARY ACTIONS. (a) Provides that if the board proposes to refuse a person's application for examination, to suspend or revoke a person's license, or to probate or reprimand a person, the person is entitled to a hearing before the State Office of Administrative Hearings, rather than the board.

(b) Created from existing Subsection (c). Deletes existing Sections (d)-(g).

(c) Makes conforming changes.

(d) Created from existing Subsection (h). Makes a conforming change.

(e) and (f) Created from existing Subsections (i) and (j).

(g) Authorizes the board to require that a license holder who violates a provision of this Act participate in continuing education programs. Requires the board to specify the continuing education programs that may be attended and the number of hours that must be completed by an individual license holder to fulfill the requirements of this subsection.

SECTION 3.08. Amends Section 12, Article 4566-1.12, V.T.C.S., as follows:

Sec. 12. FEES AND EXPENSES. (a) Requires the board to establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering this Act. Prohibits the board from setting a fee for an amount less than the amount of that fee on September 1, 1993. Deletes language establishing specific fees.

(b) Makes a nonsubstantive change. Deletes existing Subsections (c)-(g).

SECTION 3.09. Amends Section 12B, Article 4566-1.12B, V.T.C.S., by amending Subsection (d) and adding Subsections (e)-(f), as follows:

(d) Requires the board's information file regarding each complaint to be kept current and contain a record for each complaint of certain information. Makes a nonsubstantive change.

(e) Requires the board, by rule, to adopt a form to standardize information concerning complaints made to the board. Requires the board, by rule, to prescribe information to be provided to a person when the person files a complaint with the board.

(f) Requires the board to provide reasonable assistance to a person who wishes to file a complaint with the board.

SECTION 3.10. Amends Article 4566-1.01 et seq., V.T.C.S., by adding Sections 12C and D, as follows:

Sec. 12C. COMPLAINT INVESTIGATION AND DISPOSITION. (a) Requires the board to adopt rules concerning the investigation of a complaint filed with the board. Sets forth the requirements for rules adopted under this subsection.

(b) Requires the board to dispose of complaints in a timely manner. Sets forth the method and requirements of a timeline established for conducting each phase of a complaint.

(c) Requires the director of the board to notify the board of a complaint that extends beyond the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

Sec. 12D. INFORMAL PROCEEDINGS. (a) Requires the board, by rule, to adopt procedures governing certain proceedings. .

(b) Requires rules adopted under this section to provide the complainant and the licensee an opportunity to be heard and to require the presence of a representative of the office of the attorney general to advise the board or the board's employees.

SECTION 3.11. Amends Article 4566-1.01 et seq., V.T.C.S., by adding Section 12E, as follows:

Sec. 12E. MONITORING OF LICENSE HOLDER. Requires the board, by rule, to develop a system for monitoring license holders' compliance with the requirements of this Act. Requires rules adopted under this section to include procedures for monitoring a license holder who is ordered by the board to perform certain acts to ascertain that the license holder performs the required acts and to identify and monitor license holders who represent a risk to the public.

SECTION 3.12. Amends Section 13, Article 4566-1.13, V.T.C.S., as follows:

Sec. 13. RENEWAL OF LICENSE. (a) Requires the board, by rule, to adopt a system under which licenses expire on various dates during the year. Sets forth the method for determining renewal fees during the transition period.

(b) and (c) Make nonsubstantive changes.

(d) Sets forth the method for renewing a license that has been expired for more than 90 days but less than one year, rather than two years.

(e) Prohibits a person whose license has been expired for one year or more from renewing the license. Authorizes the board to renew without examination an expired license of a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application. Requires the person to pay the board a fee that is equal to the examination fee for the license.

(f) Requires the board to send written notice of impending expiration to the person at the licensee's last known address, at least 30 days before the expiration of a person's license.

(g)-(h) Created from existing Subsections (f)-(j). Deletes language authorizing the board to provide an alternative mechanism for continuing education.

SECTION 3.13. Amends Article 4566-1.01 et seq., V.T.C.S., by adding Section 13B, as follows:

Sec. 13B. INACTIVE STATUS. Authorizes the board, by rule, to provide for a person who holds a license under this Act to be placed on inactive status. Requires rules adopted under this section to include a time limit for a license holder to remain on inactive status.

SECTION 3.14. Amends Section 15(a), Article 4566-1.15, V.T.C.S., to make a conforming change.

ARTICLE 4. TRANSITION; REPEALER; EFFECTIVE DATE; EMERGENCY

SECTION 4.01. (a) Requires the governor to appoint the initial members of the board as soon as possible after the effective date of this Act. Sets forth the method for appointing the members.

(b) Prohibits the board from taking any action and is not created until the day after the

date that the last appointee to the initial board takes office. Provides that on the date of its creation, the board assumes its functions and certain actions take place regarding the abolishment of the State Committee of Examiners for Speech Pathology and Audiology and the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids.

(c) Provides that until the date the State Committee of Examiners for Speech Pathology and Audiology and the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids are abolished, such entities are continued in existence and shall administer their functions under the law that governed the entity before the effective date of this Act, and the prior law is continued in effect for that purpose.

(d) Requires the board to adopt rules under this Act not later than December 1, 1993.

SECTION 4.02. Repealer: Sections 3, 4, 6, 7, and 22, Article 4512j, V.T.C.S. (regarding the State Committee of Examiners for Speech Pathology and Audiology) and Sections 2, 3, 4A, and 13A, Article 4566-1.01 et seq., V.T.C.S. (regarding the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids).

SECTION 4.03. Effective date: September 1, 1993.

SECTION 4.04. Emergency clause.